Nettie M. Steele, and 29 others, of Wilmette, Ill., all urging the enactment of the General Welfare Act, House bill 5620, at this session of Congress; to the Committee on Ways and Means.

4813. By Mr. HART: Petition of the West New York Board of Trade, protesting against any new legislation permitting the importation of refined sugar in excess of 600,000 tons; to the Committee on Agriculture.

4814. By Mr. HAVENNER: Petition of the Labor's Non-Partisan League of California, stating that labor in California has no objection to necessary or helpful congressional investigation; but the proposal for a special committee to investigate the National Labor Relations Board is absolutely unnecessary; both House and Senate committees have been hearing testimony about the Board's activities for weeks—those investigations are still in progress and Congress can gain any desired information therefrom—and that Labor's Non-Partisan League urges opposition to House Resolution 258 calling for special board investigation; to the Committee on Labor.

4815. Also, petition of the American Newspaper Guild, Local 52, San Francisco, Calif., strongly objecting to the Smith resolution (H. Res. 258) authorizing investigation of Labor Board; to the Committee on Labor.

4816. By Mr. KEOGH: Petition of the Pennsylvania Bar Association, Harrisburg, Pa., concerning House bill 6324, the administrative law bill; to the Committee on the Judiciary.

4817. Also, petition of the New York Joint Council of the United Office and Professional Workers of America, New York City, concerning proposed amendments to the Work Relief Act; to the Committee on Appropriations.

4818. Also, petition of the Drivers, Chauffeurs, and Helpers, Local No. 816, New York City, urging continuation of the prevailing wage of Works Progress Administration projects; to the Committee on Appropriations.

4819. Also, petition of the Adult Elementary Students Workmens Circle School and Immediate Students Workmens Circle School, of Brooklyn, N. Y., concerning amendments to the Work Relief Act; to the Committee on Appropriations.

4820. Also, petition of the International Brotherhood of Blacksmiths, Drop Forgers, and Helpers, Chicago, Ill., urging enactment of Senate bill 2009, the Transportation Act of 1939; to the Committee on Interstate and Foreign Commerce.

4821. Also, petition of the Merca Traffic Service Bureau, New York City, concerning House bill 4862; to the Committee on Interstate and Foreign Commerce.

4822. Also, petition of the Mallory Transport Lines, New York City, concerning the Wheeler bill (S. 2009); to the Committee on Interstate and Foreign Commerce.

4823. Also, petition of the Sperry Products, Inc., Brooklyn, N. Y., concerning the O'Mahoney bill (S. 2719) to amend the antitrust laws; to the Committee on the Judiciary.

4824. Also, petition of the International Brotherhood of Boiler Makers, Iron Ship Builders and Helpers of America, Kansas City, Kans., concerning the Lea transportation bill; to the Committee on Interstate and Foreign Commerce.

4825. Also, petition of the Dravo Corporation, Pittsburgh, Pa., concerning the Wheeler bill (S. 2009); to the Committee on Interstate and Foreign Commerce.

4826. By Mr. MERRITT: Resolution of the International Longshoremen's Association of the American Federation of Labor, New York City, opposing the Lea bill (H. R. 4862), or any similar legislation that proposes placing water carriers under the jurisdiction of the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

4827. Also, resolution of the New Rochelle (N. Y.) Clearing House, objecting to the passage of the Mead bill, which provides for the extension of Government lending; to the Committee on Banking and Currency.

4828. By Mr. PFEIFER: Petition of the Dravo Corporation, Pittsburgh, Pa., opposing the Lea transportation bill; to the Committee on Interstate and Foreign Commerce.

4829. Also, petition of the Merca Traffic Service Bureau, New York City, concerning amendment to the present House transportation bill; to the Committee on Interstate and Foreign Commerce.

4830. Also, petition of the International Brotherhood of Boiler Makers, Iron Ship Builders, and Helpers of America, Kansas City, Mo., urging support of the Lea transportation bill; to the Committee on Interstate and Foreign Commerce.

4831. Also, petition of the Brotherhood of Locomotive Firemen and Enginemen, Cleveland, Ohio, urging support of the House transportation bill; to the Committee on Interstate and Foreign Commerce.

4832. Also, petition of the Southern Transportation Co., Philadelphia, Pa., concerning the Transportation Act of 1939; to the Committee on Interstate and Foreign Commerce.

4833. Also, petition of the International Brotherhood of Blacksmiths, Drop Forgers, and Helpers, Chicago, Ill., urging support of the Transportation Act of 1939; to the Committee on Interstate and Foreign Commerce.

4834. Also, petition of the Sperry Products, Inc., Brooklyn, N. Y., opposing the O'Mahoney bill (S. 2719); to the Committee on the Judiciary.

4835. Also, petition of the National Grange, Washington, D. C., urging adoption of the Dempsey amendment to the Hatch bill (S. 1871); to the Committee on the Judiciary.

4836. Also, petition of workers on project No. 665–973–44, New York City, concerning the relief appropriation bill; to the Committee on Appropriations.

4837. Also, petition of the Drivers, Chauffeurs, and Helpers, Local No. 816, New York City, urging continuation prevailing wage of Works Progress Administration projects; to the Committee on Appropriations.

4838. Also, petition of the Pennsylvania Bar Association, Harrisburg, Pa., endorsing Senate bill 915 and House bill 6324; to the Committee on the Judiciary.

4839. By Mr. REED of Illinois: Petition of Fred M. Wells and 46 others, requesting congressional action on Works Progress Administration prevailing wage, 130-hour provision, 18-month clause, and the geographical wage differential; to the Committee on Appropriations.

4840. By Mr. REES of Kansas: Petition of A. H. Jacobs, of Delavan, and 107 other citizens of Morris County, Kans.; to the Committee on Interstate and Foreign Commerce.

4841. By Mr. WADSWORTH: Petition of Lizzie Hutchinson and others of Batavia, N. Y., urging Federal legislation to prohibit the advertising of alcoholic beverages in the press and over the radio; to the Committee on Interstate and Foreign Commerce.



# SENATE

## FRIDAY, JULY 21, 1939

*(Legislative day of Tuesday, July 18, 1939)*

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Reverend Duncan Fraser, assistant rector, Church of the Epiphany, Washington, D. C., offered the following prayer:

O Lord our God, Father of mankind: We beseech Thee to grant Thy blessing upon the President of the United States, the President of the Senate, and all Thy servants assembled here in solemn session. Upon them and their families and all the families of the Nation pour forth Thy grace; that their homes may be havens of faithfulness and patience, wisdom and true godliness, blessings and peace, till strife and discord, intolerance, and every misunderstanding shall be done away, and our land shall be filled with the glory of God as the waters cover the sea. Through Jesus Christ our Lord. Amen.

### THE JOURNAL

On request of Mr. MINTON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, July 20, 1939, was dispensed with, and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had passed the bill (S. 1871) to prevent pernicious political activities, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions, and they were signed by the Vice President:

H. R. 153. An act to transfer jurisdiction over commercial prints and labels, for the purpose of copyright registration, to the Register of Copyrights;

H. R. 161. An act to amend section 73 of the Hawaiian Organic Act, approved April 30, 1900, as amended;

H. R. 542. An act for the relief of Anna Elizabeth Watrous;

H. R. 985. An act to authorize the Secretary of War to furnish certain markers for certain graves;

H. R. 1883. An act for the relief of Marguerite Kuenzi;

H. R. 1982. An act to amend the act entitled "An act to classify officers and members of the fire department of the District of Columbia, and for other purposes";

H. R. 2168. An act to authorize the Secretary of War to make contracts, agreements, or other arrangements for the supplying of water to the Golden Gate Bridge and Highway District;

H. R. 2234. An act for the relief of W. E. R. Covell;

H. R. 2413. An act for the protection of the water supply of the city of Ketchikan, Alaska;

H. R. 2480. An act for the relief of the estate of John B. Brack;

H. R. 2687. An act for the relief of Elbert R. Miller;

H. R. 2903. An act for the relief of Virginia Guthrie, Jake C. Aaron, and Thomas W. Carter, Jr.;

H. R. 2967. An act to grant to the State of California a retrocession of jurisdiction over certain rights-of-way granted to the State of California over a certain road about to be constructed in the Presidio of San Francisco Military Reservation;

H. R. 3081. An act for the relief of Margaret B. Nonnenberg;

H. R. 3248. An act authorizing a per capita payment of $15 each to the members of the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation;

H. R. 3305. An act for the relief of Charles G. Clement;

H. R. 3314. An act to provide shorter hours of duty for members of the fire department of the District of Columbia, and for other purposes;

H. R. 3321. An act to provide allowances for uniforms and equipment to certain officers of the Officers' Reserve Corps;

H. R. 3364. An act to transfer the control and jurisdiction of the Park Field Military Reservation, Shelby County, Tenn., from the War Department to the Department of Agriculture;

H. R. 3614. An act for the relief of Frank M. Croman;

H. R. 3623. An act for the relief of Capt. Clyde E. Steele, United States Army;

H. R. 3673. An act for the relief of the Allegheny Forging Co.;

H. R. 3730. An act for the relief of John G. Wynn;

H. R. 3796. An act to extend the period of restrictions on lands of the Quapaw Indians, Oklahoma, and for other purposes;

H. R. 3834. An act to amend the act entitled "An act to regulate steam and other operating engineering in the District of Columbia," approved February 28, 1887, as amended;

H. R. 4155. An act for the relief of Mary A. Brummal;

H. R. 4391. An act for the relief of H. W. Hamlin;

H. R. 4440. An act for the relief of Mr. and Mrs. John Shebestok, parents of Constance and Lois Shebestok;

H. R. 4617. An act for the relief of Capt. Robert E. Coughlin;

H. R. 4762. An act for the relief of William S. Huntley;

H. R. 5036. An act authorizing the State highway departments of North Dakota and Minnesota and the counties of Grand Forks, of North Dakota, and Polk, of Minnesota, to construct, maintain, and operate a free highway bridge across the Red River near Thompson, N. Dak., and Crookston, Minn.;

H. R. 5064. An act to amend the act approved June 25, 1910, authorizing establishment of the Postal Savings System;

H. R. 5494. An act for the relief of John Marinis, Nicolaos Elias, Ihoanis or Jean Demetre Votsitsanos, and Michael Votsitsanos;

H. R. 5523. An act authorizing the States of Minnesota and Wisconsin to construct, maintain, and operate a free highway bridge across the St. Croix River at or near Osceola, Wis., and Chisago County, Minn.;

H. R. 5525. An act to extend the times for commencing and completing the construction of a bridge over Lake Sabine at or near Port Arthur, Tex., to amend the act of June 18, 1934 (48 Stat. 1008), and for other purposes;

H. R. 5660. An act to include Lafayette Park within the provisions of the act entitled "An act to regulate the height, exterior design, and construction of private and semipublic buildings in certain areas of the National Capital," approved May 16, 1930;

H. R. 5781. An act to extend the times for commencing and completing the construction of a bridge and causeway across the water between the mainland at or near Cedar Point and Dauphin Island, Ala.;

H. R. 5785. An act granting the consent of Congress to the State of Mississippi to construct, maintain, and operate a free highway bridge across Pearl River at or near Georgetown, Miss.;

H. R. 5786. An act granting the consent of Congress to the State of Mississippi or Madison County, Miss., to construct, maintain, and operate a free highway bridge across Pearl River at or near Ratliffs Ferry in Madison County, Miss.;

H. R. 5963. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill.;

H. R. 5964. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River between St. Louis, Mo., and Stites, Ill.;

H. R. 5984. An act granting the consent of Congress to the county of Allegheny, Pa., to construct, maintain, and operate free highway bridges across the Monongahela River, in Allegheny County, State of Pennsylvania;

H. R. 6045. An act to authorize the Secretary of the Navy to accept on behalf of the United States certain land in the city of Seattle, King County, Wash., with improvements thereon;

H. R. 6070. An act to amend section 5 of the act of April 3, 1939 (Public, No. 18, 76th Cong.);

H. R. 6079. An act granting the consent of Congress to the Arkansas State Highway Commission to construct, maintain, and operate a free highway bridge across the Black River at or near the town of Black Rock, Ark.;

H. R. 6111. An act to extend the times for commencing and completing the construction of a bridge across the Red River at or near a point suitable to the interests of navigation, from a point in Walsh County, N. Dak., at or near the terminus of North Dakota State Highway No. 17;

H. R. 6502. An act granting the consent of Congress to the State of Minnesota or the Minnesota Department of Highways to construct, maintain, and operate a free highway bridge across the Mississippi River at or near Little Falls, Minn.;

H. R. 6527. An act granting the consent of Congress to the Commissioners of Mahoning County, Ohio, to replace a bridge which has collapsed, across the Mahoning River at Division Street, Youngstown, Mahoning County, Ohio;

H. R. 6577. An act to provide revenue for the District of Columbia, and for other purposes;

H. R. 6578. An act granting the consent of Congress to Northern Natural Gas Co. of Delaware to construct, main-

tain, and operate a pipe-line bridge across the Missouri River;

H. R. 6672. An act to amend the act entitled "An act to create a new division of the District Court of the United States for the Northern District of Texas," approved May 26, 1928 (45 Stat. 747);

H. R. 6748. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Winona, Minn.;

H. R. 6834. An act authorizing the Commissioners of the District of Columbia to settle claims and suits of the District of Columbia;

H. R. 6870. An act to grant to the Commonwealth of Massachusetts a retrocession of jurisdiction over the General Clarence R. Edwards Memorial Bridge, bridging Watershops Pond of the Springfield Armory Military Reservation in the city of Springfield, Mass.;

H. R. 6876. An act to make uniform in the District of Columbia the law on fresh pursuit and to authorize the Commissioners of the District of Columbia to cooperate with the States;

H. R. 6928. An act to extend the times for commencing and completing the construction of a bridge across the Niagara River at or near the city of Niagara Falls, N. Y., and for other purposes;

H. R. 7052. An act to provide a posthumous advancement in grade for the late Ensign Joseph Hester Patterson, United States Navy;

H. J. Res. 247. Joint resolution to provide minimum national allotments for cotton; and

H. J. Res. 248. Joint resolution to provide minimum national allotments for wheat.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Downey | King | Russell |
| Andrews | Ellender | La Follette | Schwartz |
| Ashurst | Frazier | Lee | Schwellenbach |
| Austin | George | Lodge | Sheppard |
| Bailey | Gerry | Logan | Shipstead |
| Bankhead | Gibson | Lucas | Stewart |
| Barbour | Gillette | Lundeen | Taft |
| Barkley | Glass | McCarran | Thomas, Okla. |
| Bone | Green | McKellar | Thomas, Utah |
| Borah | Guffey | McNary | Tobey |
| Bridges | Gurney | Maloney | Townsend |
| Bulow | Hale | Mead | Truman |
| Burke | Harrison | Miller | Tydings |
| Byrd | Hatch | Minton | Vandenberg |
| Byrnes | Hayden | Murray | Van Nuys |
| Capper | Herring | Norris | Wagner |
| Chavez | Hill | O'Mahoney | Walsh |
| Clark, Idaho | Holman | Overton | Wheeler |
| Clark, Mo. | Holt | Pepper | White |
| Connally | Hughes | Pittman | Wiley |
| Danaher | Johnson, Calif. | Radcliffe | |
| Davis | Johnson, Colo. | Reed | |

Mr. MINTON. I announce that the Senator from North Carolina [Mr. REYNOLDS], the Senator from New Jersey [Mr. SMATHERS], and the Senator from South Carolina [Mr. SMITH] are detained from the Senate because of illness in their families.

The Senator from Mississippi [Mr. BILBO], the Senator from Michigan [Mr. BROWN], the Senator from Arkansas [Mrs. CARAWAY], the Senator from West Virginia [Mr. NEELY], and the Senator from Illinois [Mr. SLATTERY] are absent on important public business.

The Senator from Ohio [Mr. DONAHEY] is unavoidably detained.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

TRAFFIC IN OPIUM AND OTHER DANGEROUS DRUGS

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Treasury, transmitting, pursuant to law, the Annual Report of the Federal Bureau of Narcotics for the year ended December 31, 1938, which, with the accompanying report, was referred to the Committee on Finance.

PETITIONS

The VICE PRESIDENT laid before the Senate a resolution of the Young Men's Business Club, of New Orleans, La., favoring continuation and expansion of present investigations relative to alleged graft, corruption, misappropriation of moneys, and malfeasance in office of certain officials in connection with the handling of public funds in the State of Louisiana, which was referred to the Committee on the Judiciary.

He also laid before the Senate a resolution of the twenty-first annual convention of the Michigan Federation of Post Office Clerks, praying for the appointment of a joint congressional commission to investigate conditions surrounding the employment of substitute post-office clerks in first- and second-class post offices, and clerks in third-class post offices, with a view of recommending necessary and desirable legislation, which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 2261) for the relief of the Western or Old Settler Cherokees, and for other purposes, reported it without amendment and submitted a report (No. 889) thereon.

Mr. WHEELER, from the Committee on Indian Affairs, to which were referred the following bills and joint resolutions, reported them severally without amendment and submitted reports thereon:

S. 2609. A bill to reimpose the trust on certain lands allotted to Indians of the Crow Tribe, Montana (Rept. No. 890);

H. R. 4965. A bill for the relief of J. Harry Walker (Rept. No. 891);

H. R. 5506. A bill to authorize the Secretary of the Interior to contract with the State Water Conservation Board of Montana and the Tongue River Water Users' Association for participation in the costs and benefits of the Tongue River Storage Reservoir project for the benefit of lands on the Tongue River Indian Reservation, Mont. (Rept. No. 892);

S. J. Res. 153. Joint resolution to approve the action of the Secretary of the Interior in deferring the collection of certain irrigation charges against lands under the Blackfeet Indian irrigation project (Rept. No. 893); and

H. J. Res. 264. Joint resolution to approve the action of the Secretary of the Interior deferring the collection of certain irrigation construction charges against lands under the San Carlos and Flathead Indian irrigation projects (Rept. No. 894).

Mr. VAN NUYS, from the Committee on the Judiciary, to which was referred the bill (S. 2709) to limit the operation of sections 109 and 113 of the Criminal Code and section 190 of the Revised Statutes of the United States with respect to counsel in certain cases, reported it with amendments and submitted a report (No. 895) thereon.

ENROLLED BILLS PRESENTED

Mr. TRUMAN (for Mrs. CARAWAY), from the Committee on Enrolled Bills, reported that on July 20, 1939, that committee presented to the President of the United States the following enrolled bills:

S. 504. An act to provide a right-of-way;

S. 770. An act to authorize the addition to Glacier National Park, Mont., of certain property acquired for the establishment of a fish hatchery, and for other purposes;

S. 1116. An act to amend section 1860 of the Revised Statutes, as amended (48 U. S. C. 1460), to permit retired officers and enlisted men of the Army, Navy, Marine Corps, and Coast Guard to hold civil office in any Territory of the United States;

S. 1155. An act to provide for probationary appointments of officers in the Regular Army;

S. 1725. An act relating to the acquisition of the site for the post-office building to be constructed in Poplarville, Miss.; and

S. 1878. An act to provide for the distribution of the judgment fund of the Shoshone Tribe of the Wind River Reservation in Wyoming, and for other purposes.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MEAD:

S. 2848. A bill to amend the act entitled "An act to adjust the compensation of certain employees in the Customs Service," approved May 29, 1928; to the Committee on Finance.

By Mr. BYRD:

S. 2849. A bill granting an increase of pension to Mary W. Osterhaus; to the Committee on Pensions.

S. 2850. A bill to prohibit the exportation of tobacco seed, except for experimental purposes; to the Committee on Agriculture and Forestry.

By Mr. LEE:

S. 2851. A bill for the relief of Sherman Hardrick; to the Committee on Finance.

S. 2852. A bill authorizing the appointment and retirement of Edgar C. Hill as a captain, United States Army; to the Committee on Military Affairs.

By Mr. TYDINGS:

S. 2853 (by request). A bill to amend the act of Congress known as the District of Columbia Alcoholic Beverage Control Act, as amended, to permit the sale of beer to persons seated in automobiles parked upon the premises of the permitee in the District of Columbia; to the Committee on the District of Columbia.

By Mr. ADAMS:

S. 2854. A bill to authorize the lease or sale of certain public lands in Alaska, and for other purposes;

S. 2855. A bill to authorize the Secretary of the Interior to withdraw public-domain lands for the protection of watersheds; and

S. 2856. A bill to authorize the Secretary of the Interior to sell or lease for park or recreational purposes, and to sell for cemetery purposes, certain public lands in Alaska; to the Committee on Public Lands and Surveys.

By Mr. BARBOUR:

S. 2857. A bill to extend the amortization period and reduce the interest rate on Home Owners' Loan Corporation mortgages; to the Committee on Banking and Currency.

S. 2858. A bill to provide for an appeal to the Supreme Court of the United States from the decision of the Court of Claims in a suit instituted by George A. Carden and Anderson T. Herd; to the Committee on the Judiciary.

By Mr. BAILEY:

S. 2859. A bill to perfect the consolidation of the Lighthouse Service with the Coast Guard by authorizing the commissioning, appointment, and enlistment in the Coast Guard, of certain officers and employees of the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. WAGNER (for himself, Mr. PEPPER, and Mr. DOWNEY):

S. 2860. A bill to amend the Emergency Relief Appropriation Act of 1939 to provide for the reestablishment of the Federal arts projects; to the Committee on Appropriations.

By Mr. WAGNER:

S. 2861. A bill to record the lawful admission to the United States for permanent residence of Solomon Kreitman; to the Committee on Immigration.

S. 2862. A bill to provide compensation for disability or death resulting from injury to employees of interstate carriers, and for other purposes; to the Committee on Interstate Commerce.

By Mr. ELLENDER:

S. 2863. A bill for the relief of Clarence Stanley Williams; to the Committee on Immigration.

LOANS FOR SELF-LIQUIDATING PROJECTS—AMENDMENT

Mr. MALONEY submitted an amendment intended to be proposed by him to the bill (S. 2759) to provide for the construction and financing of self-liquidating projects, and for other purposes, which was referred to the Committee on Banking and Currency, and ordered to be printed.

AUTHORIZATION OF WORKS ON RIVERS AND HARBORS—AMENDMENT

Mr. DOWNEY submitted an amendment intended to be proposed by him to the bill (H. R. 6264) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, which was ordered to lie on the table and to be printed.

INVESTIGATION OF IMMIGRATION PROBLEM

Mr. HOLMAN submitted the following resolution (S. Res. 168), which was referred to the Committee on Immigration:

*Resolved*, That the Committee on Immigration, or any duly authorized subcommittee thereof, is authorized and directed to make a full and complete investigation of the immigration of aliens into the United States with a view to determining, among other things, (1) the extent to which aliens have been permitted to enter the United States in violation of the immigration laws, (2) whether any deficiencies exist in the immigration laws or in the administration thereof which permit entry into the United States of undesirable aliens or aliens who compete with citizens of the United States in securing employment, and (3) necessary steps to be taken in order to correct any such deficiencies and to prevent the continuation of any violation or circumvention of the immigration laws. The committee so appointed shall report to the Senate, at the earliest practicable date, the results of its investigation together with its recommendations.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate in the Seventy-sixth and succeeding Congresses, to employ such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $10,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

NEW ENGLAND FISHING INDUSTRIES—INVESTIGATION BY TARIFF COMMISSION

Mr. LODGE. Mr. President, I ask consent to submit a resolution for appropriate reference directing the United States Tariff Commission to investigate and report, as soon as practicable, the facts with respect to the importation of fresh and frozen fish. I offer this resolution, which is a companion piece to one presented by Representative BATES in the House of Representatives, because I am advised that imports of fish fillets from Canada have multiplied more than five times during the last 5 years under the reciprocal trade program, and the last figures from the Department of Commerce show another large increase during the first 6 months of 1939 as compared with the same period of 1938.

The resolution directs a special study of this situation, involving the destruction of the New England fishing industries, and a full report as soon as possible. I am hopeful that when such figures are available to Congress there will be corrective action.

The city of Gloucester, Mass., one of our largest fishing centers, whose citizens have been following the sea for generations, is the hardest hit by these foreign imports. In fact, on Sunday, July 30, they are to have "a remonstrance day" to protest against these imports of fish.

I may say, in conclusion, that under the Tariff Act of 1930 imports of fresh and frozen fish fillets were taxed 2½ cents a pound. Under the reciprocal-trade treaty the rate was reduced to 1⅞ cents a pound. A tariff of at least 4 cents a pound would be required to equalize production costs.

There being no objection, the resolution (S. Res. 169) was referred to the Committee on Finance, as follows:

*Resolved*, That the United States Tariff Commission is directed, under the authority conferred by section 332 of the Tariff Act of 1930, to investigate and report to the Senate as soon as practicable the facts with respect to the importation of fresh and frozen food fish, except shellfish, during the fiscal year ending June 30, 1939, and the effect of such importations and any foreign trade agreements entered into under section 350 of such act upon the domestic fishing industry.

SPEECHES BY AND EDITORIAL COMMENTS CONCERNING SENATOR ASHURST

[Mr. ASHURST asked and obtained leave to have printed in the RECORD certain letters written by him and speeches made

by him and, also a number of editorials, which appear in the Appendix.]

NEW PROBLEMS OF GOVERNMENT—ADDRESS BY SENATOR TAFT

[Mr. McNARY asked and obtained leave to have printed in the RECORD an address on the subject of New Problems of Government, delivered by Senator TAFT before the Institute of Public Affairs of the University of Virginia, at Charlottesville, Va., July 14, 1939, which appears in the Appendix.]

ADDRESSES IN HONOR OF THOMAS A. EDISON AND MRS. MINA M. EDISON HUGHES

[Mr. BARBOUR asked and obtained leave to have printed in the Appendix of the RECORD addresses in honor of the late Thomas A. Edison and Mrs. Mina M. Edison Hughes delivered at a dinner held at the Newark Athletic Club on Wednesday, May 31, 1939, which appear in the Appendix.]

NEUTRALITY—ARTICLE BY DAVID LAWRENCE

[Mr. MINTON asked and obtained leave to have printed in the RECORD an article in the Washington Star written by David Lawrence under the headline "Senate Spikes United States Guns of Trade," which appears in the Appendix.]

ADDITIONAL CIRCUIT AND DISTRICT JUDGES

Mr. ASHURST. Mr. President, asking pardon of the Senate for discussing a subject not now before the Senate, I advert to an editorial printed in the New York Times of July 20, entitled "Help Sorely Needed." There is implied, if not expressed, in the editorial a criticism of Congress for its delay in providing an additional district judge for the southern district of New York. I rise, not to complain against the editorial but rather to join my criticism with that contained in the editorial. There is now pending on the Senate calendar a bill, S. 2185, which, after months of careful investigation, has been reported from the Senate Committee on the Judiciary, proposing to create an additional circuit judge for the sixth circuit and an additional one for the eighth circuit, and also additional district judges for the southern district of California, the district of New Jersey, the western district of Oklahoma, the eastern district of Pennsylvania, the southern district of New York, and one for the northern and southern districts of Florida. I shall at the appropriate time move that the Senate proceed to the consideration of that bill after the pending unfinished business shall have been concluded.

Mr. McNARY. Mr. President, my attention was diverted. May I inquire what bill the Senator from Arizona has in mind?

Mr. ASHURST. I refer to Senate bill 2185 to provide for the appointment of additional district and circuit judges, which is No. 716 on the calendar. I will repeat what I said.

Mr. McNARY. I do not ask the Senator to do that.

Mr. ASHURST. My remarks arose because of an editorial printed in yesterday's New York Times in which criticism was made of Congress for its delay in providing an additional district judge for the southern district of New York. The criticism is just. I wish to bear my share of the blame, and as much of the blame as other Senators may feel it irksome for them to bear. I gave notice that as soon as the pending bill shall have been concluded, I shall, if I secure the floor, ask the Senate to consider the bill which has been reported from the Judiciary Committee and which proposes to create two additional circuit judgeships and six additional district judgeships.

This bill is not a "flash in the pan." It is the result of 1 year's careful investigation. The special committee sent some of its members to the various States to investigate and ascertain personally the need of such additional judges. The Senate Committee on the Judiciary has reported a bill proposing an additional circuit judge in the sixth circuit, one in the eighth circuit, and one additional district judge in each of the following States: California, New Jersey, Oklahoma, Pennsylvania, New York, and Florida.

Mr. McNARY. If the Senator will pardon me, may I inquire if it is proposed that the judgeship to be created in California is a district judge or a circuit judge?

Mr. ASHURST. It is a district judge.

Mr. McNARY. No new circuit is created?

Mr. ASHURST. No new circuit is created. An additional judge for the sixth circuit and an additional judge for the eighth circuit are provided, but no change in the circuits or districts is proposed in this particular bill.

Mr. McNARY. May I ask the able Senator is there any controversy over the bill? Will it lead to any debate?

Mr. KING. I may say I think it will. I shall oppose it.

Mr. ASHURST. Some Senators are opposed to the bill, and I very much respect their judgment, but I am of the opinion that the Senate should, before it adjourns, pass the bill.

TRUTH IN FABRIC

The Senate resumed the consideration of the bill (S. 162) to protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool products, and for other purposes.

Mr. THOMAS of Oklahoma. I submit two amendments to the pending bill and ask that they lie upon the table until the proper time formally to offer them.

The VICE PRESIDENT. The amendments will be received, printed, and lie on the table.

The pending question is on the first amendment of the committee, which was stated yesterday.

Mr. SCHWARTZ. Mr. President, yesterday the senior Senator from Vermont [Mr. AUSTIN] was giving a résumé of the testimony with reference to the brief of the Consumers' League for Honest Wool Labeling, and particularly the testimony of Mr. Wilson; and the Senator stated, as the RECORD shows, that he asked that Mr. Wilson furnish the names of the members of that association and file them with the committee, Mr. Wilson having stated that the league was a Wyoming organization.

Under date of March 9 Mr. Wilson filed with the committee a statement of the Wyoming members, and I desire to introduce it in the RECORD at this point.

The VICE PRESIDENT. Without objection, the statement will be printed in the RECORD.

The statement is as follows:

MEMBERS OF CONSUMERS LEAGUE FOR HONEST WOOL LABELING

Douglas, Wyo.: Wesley K. Wiker, H. J. Bolin, E. H. Potter, R. L. Swan, Cash Wadsworth, Archie Alexander, Heywood Picklesimer, Harry A. Gillispie, Edward F. Edwards, Fred Jenne, Rhea Tillard, H. C. Reese, H. F. Esmay, William J. Smith, T. U. Slonaker, Mrs. Sarah E. Morton, John R. Morton, J. W. Williams, V. H. Knisely, George Cross, Jr., William R. Moore, Dr. J. R. Hylton, Charles Saul, Fred Dilts, Louis Cook, Jr., Douglas Cook.

Ross, Wyo.: Herman Werner, Lee Moore, Delbert Pierce, Alex Cunningham, LeRoy Moore.

Midwest, Wyo.: Robert B. Moore, W. E. Taylor, J. S. Parsons, J. W. McPhillamey.

Bear Creek, Wyo.: E. W. Manning, Harold Carson, M. G. Hardy, Robert Hardy, Wheeler Eskew.

Turnercrest, Wyo.: Floyd Reno, S. A. Archibald, Rex Haas.

Beulah, Wyo.: Annajean Andrews.

McKinley, Wyo.: J. B. Wilson, Bess M. Wilson, S. M. Petersen.

Laramie, Wyo.: Mrs. G. H. Ernwine, Mrs. C. C. Falkenstein, Mrs. R. P. Gottshalk, Mrs. Sigrid B. Anderson, Mrs. Sarah Haskins, Miss Christine McDonald, Mrs. Lena F. Hecht, Mrs. Richard Hecht, Mrs. F. S. Hultz, Miss Mary Callapy, Miss Evangeline Jennings, Miss Gladys Oller, Miss Bernice Forrest, Mrs. R. S. Idle, Mrs. J. H. King, Mrs. S. H. Knight, Mrs. A. W. McCollough, Mrs. Elizabeth McVicar, Mrs. H. C. Prahl, Mrs. O. C. Schwiering, Mrs. S. S. Wheeler, Miss Margery Hewell, Miss Ruth Bumpus, Mrs. Evelyn Hill, Mrs. H. T. Person, Mrs. Carl Arnold, Mrs. W. E. Stevens, Mrs. Tom H. Barratt, Mrs. W. B. Owen, Miss Rita Jain, Miss Rita Ridings, Mrs. F. A. Halliday, Miss Viola Beery, Mrs. Robert Blair, Mrs. D. M. Blair, Mrs. J. E. Contrell, Mrs. Hugh Moreland, Mrs. R. C. Contrell, Mrs. H. E. Dailey, Mrs. J. A. Hill, Miss Sally Hill, Mrs. Boyd G. Carter, Mrs. Paul H. Crissman, Mrs. Verna J. Hikcock, Mrs. Howard Hall, Mrs. May R. Jewell, Mrs. Lula J. Bumpus.

Evanston, Wyo.: Alice Heward.

Cheyenne, Wyo.: Grace S. Tod, Elizabeth Reiff, Frances Brodie, Nellie Gowes, Wilhelmina Miller, Nell Shrewsbury, Ethel McMannama, Margaret Jones, M. D., Stanley C. Hanks, Ruth Hassed, Ruth H. Kingham, Lucy Caras, Josephine S. Connelly, Margarete Wilms, Dan W. Greenburg, Leah R. Brill, Julia Bartlett Freeborn, Fraye McGwenn, Laura B. True, Mary L. Denoute, H. D. Port, Russell Thorp, Myrna T. Agee, Mary Ohlund, Hazel Olsen, Mrs. Walter T. More, Mrs. R. J. Boesel, Mrs. Charles Husig, Mrs. William C. Wolcott, Mrs. Galen A. Fox, Mrs. S. P. Wallin, Mrs. J. M. Garnett, Mrs. J. A. Greenwood, W. F. Nelson, Jack Shafer, Walter Halle, Warren Live Stock Co.

Consumer-Buyer Group of the Cheyenne Branch of the American Association of University Women: Mrs. John W. Scott (leader),

400 West Twenty-seventh Street; Mrs. John E. Jussila, 2410 House Avenue; Mrs. C. W. Skinner, 220 East First Avenue; Mrs. Lowell H. Hurt, 3025 Cribbon Avenue; Mrs. H. D. Port, 402 West Twenty-eighth Street; Mrs. E. C. Andrew, 3512 Central Avenue; Mrs. James Powers, 3421 Central Avenue; Mrs. George T. Cunningham, 308 East Twenty-seventh Street; Mrs. Lester Bagley, 2122 House Street; Laura V. Richardson, 2220 Capitol Street; Mrs. A. M. Etter, 406 West Twenty-eighth Street; Mrs. Lester Garton, 322 West Twenty-eighth Street; Mrs. Hattie Port, 402 West Twenty-eighth Street; Mrs. Paul Allright, 3517 Central Avenue; Mrs. H. C. Klein, 3000 Central Avenue; Mrs. Clara Raife Comly, 2822 Captol Avenue; Mrs. Walter Park, 3020 Capitol Avenue; Warren Richardson, 2220 Capitol Avenue; Mrs. C. N. Kinney, 422 West Twenty-ninth Street; Mrs. W. F. Nelson, 2815 Thomes Avenue (all in Cheyenne, Wyo.).

Rawlins, Wyo.: J. R. Engstrom, Howard J. DeLude, Stella Cooley, J. C. Budu, Mike Sumare, Charles McChesny, H. M. King, W. E. France, C. W. Kildeer, Newt Doggett, Skermer Rasmussen, Bill Helbertius, M. A. Bauer, K. Kazmerchok, E. W. Green, O. J. Seaverson, Kleber H. Hadsell, D. R. Higley, Anthony Stratton, Margery Stratton, Thomas Stratton, Mrs. Helen Bogren, Roy R. Bogner, D. L. Rusk, Robert Ogilvie, Maud M. Bonds, Vera C. McCoy, John S. Childs, Reynold A. Seaverson, Kudt Thuys, W. A. Thuys, Isadore Bottin, F. W. Mattas, Rawlins Thuys, J. R. Cully, W. L. Alwin, Ross Alcorn, Will F. Daley, Bea Alcorn, James A. Sheahan, Vina K. Sheahan, Helen Doggett, J. P. Shrahms, W. B. Humphreys, R. C. McLain, Fannie Rendle, B. G. Higgins, Laura Brown, Freda Wolgren, W. B. Atchison, C. F. Margusett, Ann Hangard, Mrs. Fred Milam (Bairoil, Wyo.), F. F. Kraft, Lester Seaverson, Eva Gilell, S. A. H. Charald, Nina H. Ferris, Mabel Pilger, Alice Kenney, Elmer Albertson, Ida Annacon, Nelse Holmhing, Dorothy Boldman, Frank J. Meyers, Glen Walker, Tyler Hays, M. E. Pickett, John F. Gooldy, Mrs. Dennis Omelia, Mrs. Willet Robertson, Mrs. Frank Cullen, Fred C. Spring (Laramie, Wyo.), Masley Johnson, J. E. Turney, W. L. Nelum, Bert Hanks, W. L. Robertson, J. G. Mathiesen, C. L. Alsop, M. M. Tunny, O. B. Gilbert, Wesley F. Johnson, Homer Hughes, Glenn Penland, H. W. Thompson, Leland A. Luke, Harold M. Johnson, John Johnson, Martha Gustafson, Arnold J. Nielsen, W. W. Daisy, P. B. Dalley, W. A. Whelan, R. M. Hulme, Robert P. Peterson, Mrs. J. P. Arnott, Mrs J. C. Tweed, Mrs. Mabel King, Mrs. Dorrace Kaufman, Fred Kelly, B. S. Price, F. E. Froling, Ed Peterson, Paul Isom, Mrs. Victoria Froling, Chris Brown, George R. Weddle, Katrine M. Hadsell.

Kemmerer, Wyo.: John A. Reed.

Mr. WALSH. Mr. President, I should like the attention of the Senator from Vermont [Mr. AUSTIN].

Unfortunately, because of my being a member of an important conference committee, I have not had an opportunity to listen to the entire debate on the pending bill; but there are some features of it about which I should like to be informed.

First of all, I desire to ask the Senator from Vermont a practical question. If the bill is enacted into law, what will be the marking on a piece of woolen cloth which is made in part from so-called virgin wool and in part from reclaimed wool?

Mr. AUSTIN. Mr. President, if the product contains wool which has been made into a fibrous state after having been spun, woven, knitted, felted, or otherwise manufactured, it must have a label "Reclaimed wool."

If, however, it contains, purports to contain, or in any way is represented as containing wool, it shall have a mark "wool product."

However, if the fabric is of material which has never been reclaimed from any spun, woven, knitted, felted, or otherwise manufactured product, and is wool from the back of a sheep—that is, not wool which has been pulled from the pelt of a dead sheep but wool which comes from a live sheep—it must have a mark "virgin wool."

There is also a very comprehensive mark which is as follows: The mark "wool" and the term "wool" under this bill would mean the fiber from the fleece of the sheep or lamb, or hair of the angora or cashmere goat, and may include the so-called specialty fibers, namely, the hair of the camel, alpaca, llama, rabbit, and vicuna.

Does that answer the Senator's question?

Mr. WALSH. Yes; in part. Does the label have to show the percentage of virgin wool or reclaimed wool?

Mr. AUSTIN. Mr. President, it does; and if an error is made, it is an unfair practice.

Mr. WALSH. What is the penalty?

Mr. AUSTIN. There is not a penalty for a mere error; but if there is a willful misrepresentation, there may be two consequences: One is the civil action of an injunction, and the other is the criminal one of imprisonment or fine.

Mr. WALSH. That is, if there is fraud or deliberate misrepresentation of the contents of a material required to be labeled under this bill, the manufacturer would be subject to a civil injunction and a criminal process?

Mr. AUSTIN. Mr. President, not only the manufacturer but also the person who knowingly receives from the manufacturer and resells, or attempts to resell, the misbranded article.

Mr. WALSH. So that the wholesaler and the retailer who had knowledge that the brand was not correct would be subject to the same penalty as would the manufacturer?

Mr. AUSTIN. Yes.

Mr. WALSH. If they knowingly dealt in a misbranded article?

Mr. AUSTIN. Yes.

Mr. WALSH. Now, I should like to ask the Senator if it is not a well-known fact that wool varies to a very large and extensive degree in its fineness, in its durability, in its quality, and in the price it commands in the open market?

Mr. AUSTIN. Mr. President, my understanding is that there are many different degrees of quality in wool that could be marked "virgin wool"; therefore that the consumer, on seeing a piece of goods marked "virgin wool," may not know from that mark alone whether he is getting a high quality of goods or a very low quality. The label "virgin wool" could truthfully represent a fleece that came from a live sheep, and yet it might be a fleece that was poor in textile strength; it might be a fleece that was long or it might be one that was short. It might be a fleece that had been painted; for where sheep are allowed to graze a range it is customary to identify them with paint, and the place that has been painted may have had to be cleaned to such an extent and in such a manner as to reduce the quality of the fleece. So it is possible to have within the term "virgin wool" many grades of quality and of durability of wool.

Mr. WALSH. Can the Senator give us some information in reference to the variation in prices of these different qualities of wool? My recollection is that it ranges from a few cents to almost a dollar, or perhaps over a dollar, per pound, according to the different grades.

Mr. AUSTIN. Mr. President, I could not answer the question from memory. I think the prices appear in the RECORD.

Mr. WALSH. But the price does increase very rapidly and very extensively in proportion to the fineness and quality of the fleece. Is not that correct?

Mr. AUSTIN. Yes; I believe that to be a correct statement.

Mr. WALSH. What troubles me about the bill is not so much the requirement to label or to show what proportion of reused wool and what proportion of wool that is not reused is contained in a suit of clothes or a piece of woven cloth. It is the matter to which the Senator has referred, that if this is a bill to require the label to inform the consumer, and to give him some information as to the quality, and to be a protection to the consumer as to the quality or kind of wool he is purchasing, there should be in the bill some provision requiring the label to designate the low value or the inferior quality of some of the wool, and there ought to be some information on the label as to the fineness and the better quality of reclaimed wool.

Mr. AUSTIN. Mr. President, in answer to the question, let me say that inadvertently the distinguished Senator from Massachusetts has used a new term not heretofore spoken of between us; that is, the term "reused wool." Reused wool differs from reprocessed or reclaimed wool or wool product, as spoken of in the pending bill. Reused wool is really second-hand wool; that is, wool which has been used by the ultimate consumer and then reduced to a fiber.

The question of the Senator from Massachusetts is whether the bill indicates quality in any way; that is, warmth, durability——

Mr. WALSH. Strength.

Mr. AUSTIN. And style, all those characteristics which go into a garment. It is my opinion that it does not in any way require the label to identify the difference between a finished product which is really poor in quality and a finished product

which is really good in quality, because there may be a garment made of virgin wool that is not as good in quality as a garment made of the virgin wool and the reprocessed wool combined.

Mr. WALSH. My next question to the Senator relates to that subject. Is it not a fact that there are many woolen textiles, so-called, of which the quality and the fineness and the usefulness and the style are much better, in a cloth or garment in which there are both so-called virgin wool and so-called reprocessed wool?

Mr. AUSTIN. Yes.

Mr. WALSH. And is it not a fact that many textiles combining reprocessed wool with so-called virgin wool are often very much better in quality and in usefulness than cloths made of the inferior or cheaper so-called virgin wool?

Mr. AUSTIN. Yes.

Mr. WALSH. Is there anything in the pending bill which would compel to be indicated to a consumer the difference in merit between garments and cloths containing low-grade wool and those made of the best quality of reprocessed and virgin wool?

Mr. AUSTIN. Mr. President, I would answer that question in this way: There is nothing in the bill which would help the consumer to know, from the use of the label "virgin wool," that he is getting a better product on the merit basis than he would have if the label bore the words "reused wool", or any other label whatever, for the simple reasen that merit does not depend solely upon the use of virgin wool in a fabric, but depends upon many other factors; and for the additional reason that there may be a high percentage of reworked wool in a garment and a low percentage of virgin wool in it, and it may still be the finest type of fabric from the merit point of view.

Mr. WALSH. I appreciate that.

Mr. SCHWARTZ. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. SCHWARTZ. The short-fiber wool, or the low grade of virgin wool, is used in certain kinds of manufacture, we will say, in stockings, or to give an extra gloss to the nap of some sort of garment. When reclaimed wool is used for the same purposes, of course, it must be reclaimed from the same class of wool, so that the comparison is that a given grade of virgin wool will come in competition with a given grade of reworked wool made from the same grade of virgin wool. So if there is immature fiber in the virgin wool it does not come in competition with the better grades of reworked wool and longer fibers.

Mr. WALSH. I appreciate having the Senator's statement.

Mr. AUSTIN. May I amplify my answer just a moment?

Mr. WALSH. Before the Senator does that, permit me to say that we have been discussing the variation in the fineness and quality of so-called virgin wool and even in the price. Does not the same situation apply to reprocessed wool?

Mr. AUSTIN. Yes.

Mr. WALSH. Is there anything in the bill to compel anyone to show that the reprocessed wool is of a high quality, the most expensive on the market, in contrast with the inferior or low-quality reprocessed wool?

Mr. AUSTIN. No. If the Senator will permit me, in discussing and answering his question, when I used the word "merit" in relation to a garment, I assumed these factors: First, strength, weight ratio; second, fiber length, to which the Senator from Massachusetts referred; and, third, the percentage of frayed and broken fibers in the piece, all of which enter into making the test whether one garment has more merit than another, so far as fabric goes.

Mr. WALSH. There would be nothing on the labels to indicate any of the factors to which the Senator has referred in arriving at the value of wool, or the durability of it, or the fineness of it?

Mr. AUSTIN. That is correct.

Mr. SCHWARTZ. Mr. President, will the Senator from Massachusetts yield at that point?

Mr. WALSH. I gladly yield to the Senator from Wyoming.

Mr. SCHWARTZ. The Senator has brought out that the bill requires the labeling of woolens. Let me read from subdivision (b) on page 7:

> In addition to information required in this section, the stamp, tag, label, or other means of identification, or substitute therefor under section 5, may contain other information not violating the provisions of this act or the rules and regulations of the Commission.

Mr. WALSH. I assume, from what the Senator has read, that authority is given to some official to amplify further the requirement on the tags.

Mr. SCHWARTZ. In an explanatory manner, other information may be put on the label which will not violate the statement of percentages and the different classes of fibers required elsewhere in the bill.

Mr. WALSH. Who will administer that?

Mr. SCHWARTZ. The whole act is to be administered by the Federal Trade Commission.

Mr. AUSTIN. Mr. President, will the Senator from Massachusetts yield further?

Mr. WALSH. I yield.

Mr. AUSTIN. That is one of the most deceptive things about the bill. Let me read the paragraph just prior to that read by the Senator from Wyoming:

> In the case of a wool product represented as virgin wool, if the percentages by weight of the virgin-wool content thereof are not shown in words and figures equally conspicuous with any trade name, pictorial representation, term, or descriptive name, suggesting or implying such wool product is virgin wool, or if the total fiber weight of such wool product is not 100 percent virgin wool, exclusive of ornamentation not exceeding 5 percent of said total fiber weight.

Mr. WALSH. That is not the paragraph to which the Senator from Wyoming referred.

Mr. SCHWARTZ. I referred to subdivision (b).

Mr. AUSTIN. Let me complete my statement on the assumption that the Senator was following the question of the Senator from Massachusetts.

The section to which I have referred shows that all one gets from the label which bears the words "virgin wool" is the knowledge that, within this tolerance of 5 percent, the wool came off the back of a living sheep, and that it was manufactured by Mr. Forstmann, or by a man similarly situated. I say that for the reason that on pages 8 and 9 will be found section 5, which puts back of the trade name "virgin wool" the obligation that the man who will take the product must keep the label, the very label, which came on the goods, and if no one can make the virgin wool product except Forstmann, or some man similarly situated, the merchant and everyone else who handles such a piece of goods must advertise Mr. Forstmann's product and may not have the benefit of creating his own good will, his own good name, by putting his label on the goods. When he cuts the fabric to be made into a suit of men's clothing or a coat for a woman, he must so cut the fabric that he will not eliminate the tag or mark of the manufacturer.

Mr. President, this is the cutest bill that ever was devised to give to a small coterie, a small group of men, the highest type of advertising, the advertising a great government creates by saying to the purchaser, "You cannot take the label of the manufacturer off these goods and put on your own label. The manufacturer who has made these goods of virgin wool is entitled, under the law, to have you protect him all the way down the line, and keep his label on the goods."

Mr. WALSH. Let me see if I follow the Senator. When the manufacturer labels a piece of cloth that is many yards in length, having gone through the loom, must he put the label in a sufficient number of places to have it appear on every suit into which that cloth is cut?

Mr. AUSTIN. Yes.

Mr. WALSH. How can he do that?

Mr. AUSTIN. I do not know. If the Senator will read the testimony which I heard given he will encounter objections based on the ground of impracticability of so marking the goods, when in commerce, that they may go through with the label of the manufacturer on every piece.

Mr. WALSH. Take the illustration I used, of a suit of clothes. Some suits of clothes take only a few yards and others twice or three times as many yards, and the labels must appear so frequently on the woven cloth that they will reappear in every suit of clothes.

Mr. AUSTIN. I answer by reading section 5, beginning at line 24, on page 8 of the bill:

> Any person manufacturing for introduction, or first introducing into commerce a wool product shall affix thereto the—

Notice that word "the"—

> the stamp, tag, label, or other means of identification required by this act, and the same containing identical information with respect to content of the wool product, and other information required under section 4, or substitutes therefor shall be and remain affixed to such wool product, whether it remains in its original state or is contained in garments or other articles made in whole or in part therefrom, until sold to the consumer.

Mr. WALSH. To emphasize that will the Senator now read the last sentence again?

Mr. AUSTIN. "Shall be and remain—"

That is the tag——

Mr. WALSH. Yes; that is the tag or the label.

Mr. AUSTIN. "The stamp," the "tag," the "label, or" the "other means of identification * * * shall be and remain affixed to such wool product, whether it remains in its original state"——

Mr. WALSH. That is the woven cloth, for instance.

Mr. AUSTIN. Yes. I continue: "Or is contained in garments"——

Mr. WALSH. The suit of clothes.

Mr. AUSTIN. The suit of clothes—"or other articles"—such as a scarf for the neck—"made in whole or in part therefrom until sold to the consumer."

Imagine what the manufacturer of a strip of virgin wool cloth, or reprocessed wool cloth, or reused wool cloth will have added to his cost of production by this bill.

Mr. WALSH. The Senator says there is no such provision in the bill, but is there any amendment which the Senator knows of that would provide the consumer with knowledge as to the type, fineness, or quality of the so-called virgin wool and of the so-called reclaimed wool?

Mr. AUSTIN. Mr. President, that must be answered "No."

Mr. WALSH. I suppose it would be most difficult in a measure of this kind to define and to specify such details in a label, and it would add largely to the difficulty of administration and result in increasing the cost to the consumer?

Mr. AUSTIN. Mr. President, I would answer, first, "Yes," so that it may be clear that I mean to make an affirmative answer to that question. Let me say that the distinguished Senator from Massachusetts introduced a bill which, in a very simple, and, I think, enforceable way, identifies fabrics sufficiently to take care of all the questions that have been presented in connection with the study of this bill. There is a House bill, introduced by Representative MARTIN, which, I think, is a great improvement in the respect that it does not create or try to create a monopoly for anyone. But the points made by the Senator from Massachusetts, respecting the durability or quality of the finished product, respecting its style and its fabric, would have to be taken up in an entirely new manner and a new bill written.

Mr. WALSH. Mr. President, it seems to me that the deception which is claimed now by reason of nonlabeling reclaimed wool would be augmented and increased by a label on a garment which was simply marked "virgin wool," that was less durable, less reliable, and cheaper than a garment made of virgin wool and reclaimed wool.

Mr. AUSTIN. Mr. President, I have put in the RECORD statements by consumers, women, to the effect that it is only a delusion to them as consumers to find a product marked "virgin wool" and nothing more, or to find a product marked "reprocessed wool," for that matter, and nothing more.

Mr. WALSH. Personally I think I should be willing to vote for a bill which contained provisions for marks, labels, and tags that showed the cheapness of the virgin wool and the fineness and durability of the virgin wool, and that showed the cheapness of the reworked wool—I think that is a word which the Senator says is not in this bill—"reprocessed" wool perhaps is better. If such information could be given to the consumers they would have a proper picture of the quality of the fleece that has been woven into a cloth and made into garments and into other textiles. But in the absence of information as to the grade, character, quality, durability, and fineness of wool or the reclaimed wool, the deception which is claimed to exist now is augmented and increased, it seems to me.

Mr. AUSTIN. Mr. President, my reply to the Senator from Massachusetts is that not only is what he has stated true, in my opinion, but there is also this affirmative effect of Senate bill 162, namely, that by setting up this supposed superior garment by putting a label of "virgin wool" on it, which is no representation of the merits of the garment, other garments bearing the label "reprocessed" or "reclaimed" wool and wool products are anathematized. They are put down in a low class. The psychological and the sales effect is to ruin the market for them. And of course the repercussion of that travels clear back to the wool grower on the farm.

Mr. WALSH. And that quality of cloth and of garment is often of a very high grade and high quality, and has much more merit than garments which are made of the cheapest grade of virgin wool.

Mr. AUSTIN. Yes.

Mr. WALSH. Mr. President, I should like to amplify the colloquy we have had by reading from a book called Fables in Labels, written by LYLE H. BOREN, a distinguished Member of the House. I do not know whether or not the Senator has read the book. It deals with the very subject we have been discussing. After I shall have read from it I should like to ask the Senator some questions on another phase of the bill. I read now from page 22 of the book I have mentioned:

> Virgin wool is wool which has never before been fabricated. Such wool comes from two sources. One is the wool shorn from live animals. This may be of good or poor quality. The other is what is known as "pulled wool," which is taken from the animal after it has died or been slaughtered. This also can be of good or poor quality but is generally inferior to shorn wool. If the fleece is removed from the hide by chemicals, as is usually the case with pulled wools, the fiber may lose some of its elasticity, ability to take dyes and spinning qualities if the process is not carefully carried out. Nevertheless, it can truthfully and honestly be labeled "virgin wool."
>
> Certain wool wastes are also considered as virgin wool, although some believe these wastes should be classed as "reclaimed wool." The line as to what should and what should not be so classified has never been accurately drawn.
>
> Reclaimed wool is wool which has been processed before. Like virgin wool, it may be divided into two kinds, wool wastes and shoddy. Shoddy is the term applied to wool recovered from garments and rags. Wool wastes are the byproducts produced in the process of converting fibers into fabrics and garments and include such things as top waste, yarn waste, fabric waste, tailors' clippings, etc. Coming from such a variety of sources, reclaimed wool must of necessity be of many grades and varying qualities. It may not rank with the best grade of virgin wool, since usually the fibers are shorter and certain of them may perhaps have suffered. However, a good grade of reclaimed wool is preferable to a poor grade of virgin wool and, properly used in proper proportion, can be fabricated into serviceable and satisfactory fabrics which can be sold at reduced prices. The important consideration in selecting a fabric is not whether it is virgin or reclaimed wool but whether the resulting quality, irrespective of the kind of wool used, is good. The paramount question is one of satisfactory service (satisfactory performance).

I think that sums up what we have been trying to develop in the colloquy.

Mr. AUSTIN. Mr. President, let me call the attention of the Senator from Massachusetts to a letter which is characteristic of the sentiments of many families. I put the letter in the RECORD yesterday. The mother of five children, in circumstances not adequate to buy the highest-price garments, fears the consequences of the bill because it may

deprive her of financial ability to clothe her children properly with garments made from reprocessed wool, which she can now buy at prices within her means. She fears this consequence because she has every reason to believe that the prices of the garments she now buys would be increased by the necessary supervision, bookkeeping, and time spent in marking the material from which the garments are made. I think she has reason to believe she may ultimately lose the opportunity to buy such garments at any price whatever, by reason of the type of competition which would be created by the bill, forcing out of business the manufacturers who make goods of reprocessed wool.

Mr. WALSH. Along that very line, let me read again from the same book. By the way, LYLE H. BOREN is a Member of Congress from the Fourth District of Oklahoma. Let me read further from the book:

Processing is of the utmost importance in the production of a satisfactory fabric. In fact, proper processing is of greater importance in obtaining good performance value than the fiber content in terms of virgin or reclaimed wool. To most of us the term "virgin wool" conveys the idea of good quality and good performance value.

That is important. The term conveys a false idea.

Mr. AUSTIN. That is one of the troubles.

Mr. WALSH. That is correct. Reading further:

When we go into a store to buy a child's suit, the label on a particular one may read "virgin wool." We would probably assume that the garment would prove satisfactory. Probably it would be virgin wool, for, as a rule, such labels are accurate. The trouble with them is that they do not tell enough. If we buy the suit, in 2 weeks' time it might begin to fall apart. If held up to the light, we might be able to see through the loosely woven fabric. When pulled the yarns might slip and separate. From such experiences comes the often-heard remark, "I just can't understand. It was labeled 'virgin wool.'" And that is right. It was labeled "virgin wool" and it was virgin wool, but it did not have satisfactory performance value.

That supports what we have been contending.

Mr. AUSTIN. Yes. I think we have all seen the condition of fabric to which the Senator has referred.

Mr. WALSH. I should now like to read another paragraph or two from the same book:

The terms "virgin" or "reclaimed," as applied to products containing these materials, are meaningless because both terms cover such a wide range of values and qualities and because in point of actual market value materials covered by the two terms overlap.

Mr. BARKLEY. Mr. President, will the Senator yield to me?

Mr. WALSH. I yield.

Mr. BARKLEY. After conferring further with the Senator from Vermont [Mr. AUSTIN] and the Senator from Oregon [Mr. MCNARY] yesterday in an effort to obtain an arrangement for limitation of debate, I ask unanimous consent that after the conclusion of the address of the Senator from Massachusetts [Mr. WALSH], during the further consideration of the bill no Senator shall speak more than once or longer than 15 minutes on the bill, and no Senator shall speak more than once or longer than 10 minutes on any amendment thereto.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Kentucky? The Chair hears none, and it is so ordered.

Mr. WALSH. I wish to continue reading from the book from which I have been reading, because it is very informative. The title of the book is apropos the subject under discussion, namely, Fables in Labels.

Mr. AUSTIN. Mr. President, I could not add any authority to that author. I appreciate very much the reading by the Senator from Massachusetts, because I think it is an excellent statement.

Mr. WALSH. Again reading:

This proposed "virgin wool" term is an apt illustration of a label which becomes a fable.

A strong sentence! It is a label which becomes a fable.

Mr. AUSTIN. That is a bon mot.

Mr. WALSH. Yes. Reading further:

The term "virgin" really refers to a fiber's history, not its quality. Not only is a fiber's history no necessary index of its value characteristics, but, since the fiber is wool, there is no test of either a chemical or mechanical nature which will substantiate any claim to its relative newness.

Even if you could tell virgin or new wool from wool which had been used, there are other valid reasons why emphasis on that point is misleading. As was pointed out earlier, there are so many types and grades of wool that it means nothing to say it is "virgin." The term suggests quality, when as a matter of fact some of the wools to which the term might apply are of distinctly inferior quality, and some, even though of better grade, are totally unsuited for certain purposes.

Another strong sentence.

In other words, the term infers a virtue which the wool may not actually possess and which may not be present in the fabric, even though the raw material is excellent.

What is most important is that the consumer does not buy wool, but buys wool fabrics, or garments made from those fabrics. Authorities agree that quality in a fabric depends upon the manufacturing processes to a much greater degree than upon the raw materials used. No good fabric can be made of poor stock, but the real difference between a quality product and a mediocre one lies in the way it is fabricated rather than in the material of which it is made. Any label which calls undue attention to the raw material depreciates the importance of workmanship and deceives the purchaser by inferring a quality in manufacturing which may not exist.

That is the end of the quotation from a public official who apparently is very well informed on the subject under discussion.

I wish to close by making an inquiry as to a different aspect of this question. Letters and communications have come to me from various sources pointing out that it is impossible, from the examination of a piece of cloth, whether made in a foreign factory or made in this country, to determine what percentage of the material is so-called virgin wool and what percentage is so-called reprocessed wool. Are there any authorities who claim that any chemical or accurate analysis can be made to determine that question?

Mr. AUSTIN. Mr. President, I do not recall any scientist who professes to be able to identify in a finished fabric the relative quantities of virgin wool as defined in the bill and of reprocessed wool. They are both pure wool. The Bureau of Standards has definitely and affirmatively stated that no such method has ever been discovered. Of course, the answer is made that the manufacturer knows and that resort can be had to the manufacturer to ascertain the fact.

Mr. WALSH. What about the importers?

Mr. AUSTIN. That is one of the difficulties. Can we afford to be traveling around the world examining every piece of goods manufactured and imported? The question answers itself.

Mr. WALSH. As a matter of fact, do not some of the best so-called woolen cloths imported into this country, which come from England, contain reprocessed wool?

Mr. AUSTIN. I should say from the British Isles.

Mr. WALSH. From the British Isles.

Mr. AUSTIN. Yes.

Mr. WALSH. How is the law to be administered?

Mr. AUSTIN. I do not think it could be administered. I do not believe it could be administered as to foreign goods or domestic goods, partly for the reason to which the Senator from Massachusetts refers.

Mr. WALSH. I thank the Senator.

Mr. SCHWARTZ. Mr. President, I should like to ask the Senator if he is familiar with a couple of provisions of the bill in reference to what was said about the label carrying the name of the manufacturer down the line?

Mr. WALSH. Will the Senator read those provisions?

Mr. SCHWARTZ. Yes. I read from section 4, paragraph (C), page 7:

The name of the manufacturer of the wool product and/or the name of one or more persons subject to section 3 with respect to such wool product.

The thought I have in mind there is to prevent anyone getting the goods after they leave the manufacturer putting on a substitute label.

At the bottom of page 8, section 5 refers to the attaching of labels; and at the bottom of page 8 and the top of page 9 it is provided:

Or other means of identification required by this act.

Which applies also to substitutes which may be used.

There is another provision in the bill, the one which I endeavored to call to the attention of the Senator from Vermont, who misunderstood me and thought I was reading another section. I refer to the paragraph on page 7, beginning in line 19. Earlier the section refers to the label itself and then it says in paragraph (b):

In addition to information required in this section, the stamp, tag, label, or other means of identification, or substitute therefor under section 5, may contain other information not violating the provisions of this act or the rules and regulations of the Commission.

What I had in mind in that respect was that there would be nothing under the provisions of this bill, of course, except that it would be a matter for the Federal Trade Commission, which would prevent anybody from saying on the particular label, if that was the fact, that his product contained the finest grade of reworked wool.

The other section referred to is the section which provides that if the product is represented as virgin wool the amount of virgin-wool content shall be "shown in words and figures equally conspicuous with any trade name, pictorial representation, term, or descriptive name, suggesting or implying such wool product is virgin wool." That, as a matter of fact, was put in because some people advertise a product as being made of virgin wool and put on the label a picture of a lamb and the words "virgin wool." That provision is put in the bill so as to require, when that kind of representation is made, a statement on the label showing what percentage of virgin wool is in the garment.

Mr. WALSH. Mr. President, I desire to take this occasion to commend the Senator in his efforts to protect and to increase the production of wool in this country. I think we would accomplish more along that line if we would take steps to prevent such rapid increase in the importations of woolen goods into this country as we have had in recent months than by the passage of the pending bill. I do not know whether the Senator has in mind the table I introduced into the RECORD some days ago showing the rapid and extensive increase in the importation of wool and wool products into this country since the recent trade agreement with Great Britain.

The trouble with the Senator's bill is that it claims to protect the consumers by affording them an opportunity to demand virgin wool textile products rather than mixed reprocessed and virgin-wool products.

The discussion we have had here this morning seems to me to destroy the value of that line of reasoning, or at least the conclusions reached, because it seems to me that the result of this bill will be to deceive more extensively the consumer by not giving him the proper information as to the exact quality of the fabric which he purchases.

The Senate will recall that the passage which I read from the book in question clearly points out that the processing is even more important than the raw material, and that the raw material has a wide and varied value, depending upon a good many factors.

I wish to close now by saying that I have no quarrel with the Senator about his objective to try to increase the use of domestic wool, but it seems to me it should be done by giving the consumer clearer and more definite information as to the grades of virgin wool and as to the grades of the reprocessed wool, and I do not think this bill does it. In my opinion, this bill will result in lessening virgin-wool consumption. I thank the Senator and now yield the floor.

Mr. SCHWARTZ. Mr. President, before the Senator yields the floor, I regret very much that the Senator has been unable to be present here for the last 3 or 4 days.

Mr. WALSH. That was due to my being in conference on the social-security bill.

Mr. SCHWARTZ. Yes. Many questions that arose in the minds of various Senators have been answered in great detail. I am merely now going to call attention to one—namely, what the Senator said about the importation of woolen goods from abroad.

I should be glad at any time to join the Senator in endeavoring to secure the enactment of legislation——

Mr. WALSH. That would benefit both our woolen and garment industries and wool producers.

Mr. SCHWARTZ. Yes; and those who work in the mills by limiting in a proper manner importations; but, so far as we can do so under this bill, we have provided a procedure by which there must be a disclosure of wool content in the case of importations. We have tied it in with the tariff, and jurisdiction of the matter is placed with the Secretary of the Treasury. We have letters from the Secretary of the Treasury as to how it will be handled.

Mr. WALSH. Can the Senator give me any information as to the variation in the price of different grades of wool? It varies from a few cents up to almost a dollar, does it not?

Mr. SCHWARTZ. I would not put it in that way.

Mr. WALSH. I mean imported wool and domestic wool.

Mr. SCHWARTZ. Yes. I put the figures in the RECORD yesterday.

Mr. WALSH. In a general way, what is the spread?

Mr. SCHWARTZ. In a general way, the lowest grade of wool—which, by the way, is not used in the manufacture of cloth but is used in felt and materials of that kind—at this time is probably as low as 20 cents, and from there the price goes to 85 cents. Reclaimed wool runs at this time from a similar low price up to 36 or 40 cents.

Mr. WALSH. May I ask the Senator if there is any provision in the bill which would permit markings to be used to indicate to any purchaser of wool when it is fabricated the relative quality and kind of wool contained in the fabric?

Mr. SCHWARTZ. There are trade terms, of course. Wool is divided by trade terms into perhaps 15 or 20 classifications. That is true also of reworked wool.

Mr. WALSH. Why could we not put in this bill those 15 or 20 terms, so that when one bought a piece of cloth he would have before him the trade term for reprocessed wool and the trade term for the grade of virgin wool? That would help the consumer. It would permit the consumer to determine the relative merit of woolen goods.

Mr. SCHWARTZ. That would be impracticable. Here is a further proposition. The point I want to get across, and attempted to get across but which seems to have escaped some of the Senators, is that the different grades of virgin wool and reworked wool in the comparable scales are used in the same kind of manufacture, but a low grade of virgin wool is not used where a high-grade reclaimed wool is used. So the important thing, after all, is not that there are used some reclaimed wools at a higher price than some grades of virgin wool because they do not compete with each other in manufacture.

Mr. WALSH. Does the Senator agree with some of us that a garment made largely of reprocessed wool may be better than a garment made wholly of virgin wool so far as durability is concerned?

Mr. SCHWARTZ. Yes; but let me add that the same kind of garment is not made, on the one hand, from high-grade reclaimed wool and, on the other hand, from low-grade virgin wool. If that were possible, it would have been done long ago, and there could have been produced cheaper garments made, say, of cheap virgin wool and good virgin wool, but cheap virgin wool is not competitive with good virgin wool.

Mr. WALSH. Is the Senator seeking to have more cloth or textile fabrics made of virgin wool than of reprocessed wool? Is that one of the objectives?

Mr. SCHWARTZ. No. What we are seeking to do is to make provision so that the consumer may know what he is buying.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. SCHWARTZ. I yield the floor.

The PRESIDENT pro tempore. The Chair understands the Senator from Massachusetts has the floor.

Mr. WALSH. I yield.

Mr. WHITE. I should like to ask the Senator a question. The Senator stated a moment ago that the purpose of the bill, or one of the purposes of the bill, was to let the consumer know what he buys. I assume that there is not one person in a million in these United States who hears the term "virgin wool" without understanding that it is wool made from the fleece of a sheep. What I want to know is whether, under the terms of the bill, I could label a fabric "virgin wool" even though it were made from the hair of a rabbit?

I understand that under the terms of the bill I could label a fabric or an article "virgin wool" even though it were made from the hair of a rabbit. Am I correct in that understanding?

Mr. SCHWARTZ. Such a provision is in the bill; but we have that part of the bill marked for an amendment, and the Senator from Oklahoma [Mr. THOMAS] is going to offer an amendment to have the word "rabbit" stricken out.

Mr. WHITE. As the bill stands, however, what I have said is true, is it not?

Mr. SCHWARTZ. Oh, yes; because a small amount of rabbit fur is sometimes woven in with wool so as to give it a gloss, or something of the kind.

Mr. HAYDEN. Mr. President, if the Senator will yield, I have always heard that in order to make a rabbit pie it was necessary first to catch the rabbit. [Laughter.]

Mr. SCHWARTZ. That is true.

Mr. DAVIS. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. DAVIS. If I correctly recall, the Senator has introduced a bill to protect manufacturers and consumers from the unrevealed presence of substituted mixtures in garments.

Mr. WALSH. Yes.

Mr. DAVIS. What is the difference between the Senator's bill and the bill now under discussion?

Mr. WALSH. My bill is the better bill. It could be administered with less difficulty and be more informative to the consumer.

Mr. DAVIS. I think so.

Mr. WALSH. My bill attempts to carry out what is assumed to be the objective of this bill, but with the purpose and objective of removing the inconsistencies and the inequities which appear to be in the pending bill.

Mr. O'MAHONEY. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER (Mr. CLARK of Missouri in the chair). Does the Senator yield, and, if so, to whom?

Mr. WALSH. Just a minute.

Mr. DAVIS. Would not the Senator's bill be less burdensome on agriculturists and manufacturers and merchants, and be far better in every way than the pending bill?

Mr. WALSH. In my opinion, decidedly so.

Mr. DAVIS. I desire to ask the Senator, he being a noted constitutional lawyer——

Mr. O'MAHONEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor. Does he yield, and, if so, to whom?

Mr. O'MAHONEY. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. O'MAHONEY. Who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. O'MAHONEY. I understood that the Senator from Massachusetts had yielded the floor.

Mr. WALSH. But the Senator from Pennsylvania rose and said he would like to ask me a question; and I rose and took the floor so that I could answer the question.

Mr. O'MAHONEY. Then the Senator from Massachusetts took the floor again, having relinquished the floor?

Mr. WALSH. No; the Senator from Pennsylvania is still asking questions.

Mr. DAVIS. Mr. President, I now desire to ask the distinguished Senator from Massachusetts a constitutional question about a matter that seems to me rather strange. Does the Senator think the provision of the bill I am about to read would be constitutional? I quote from the bill on page 4, line 2:

> Or who shall receive from or through commerce, and having so received shall resell or deliver for pay, or offer to resell or so deliver to any other person.

Mr. WALSH. That question was discussed yesterday during the debate, and I think the distinguished constitutional lawyer from Vermont [Mr. AUSTIN] expressed some doubt as to the constitutionality of that provision of the bill.

Mr. THOMAS of Oklahoma. Mr. President, I have on the table two amendments which I shall call up at the proper time; but before calling up the amendments I desire to make a very brief statement.

In the body at the other end of the Capitol this bill was given rather extensive hearings. One of the Representatives from my State is a member of the committee which conducted the hearings, he being a member of the subcommittee. After the hearings had been concluded, the subcommittee made a report. The subcommittee was divided, and the main committee likewise was divided. In the main Committee on Interstate and Foreign Commerce of the other body I think some 10 members joined in a minority report upon this bill.

I offer for the RECORD, as a part of my remarks, the text of the minority report submitted by my colleague from Oklahoma [Mr. BOREN] and his nine colleagues on the committee.

The PRESIDING OFFICER. Without objection, the report will be printed in the RECORD.

The report (No. 907, pt. 2) is as follows:

> The undersigned members of the Committee on Interstate and Foreign Commerce of the House of Representatives believe that H. R. 944 should not be recommended to the House, holding that it is unnecessary and undesirable regulatory legislation which cannot possibly achieve its avowed objectives. The folly of the label provisions of this bill are evident. A label on your stocks carrying the percentage of each different fiber that goes into it, on your tie, your underwear, your hat; garments such as a suit would require a minimum of seven labels. All of these labels would start out with the manufacturer and would have to be replaced in turn by every subsequent handler of the product and the percentages would vary according to the weight of the various materials that were combined into a finished product. The sponsors of the measure would saddle this great burden on the industries to give the ultimate purchaser a label which would be meaningless and misleading. The label does not tell how long the garment will last. It does not tell the abrasion strength, the color fastness, the shrinkage, the tensile strength of the fiber, the length or quality of the fiber, the insulation value of the fabric against heat or cold, the workmanship in the garment, the strength in the weave of the cloth, or any of the many things which would be helpful to a purchaser. Instead, it arbitrarily divides wool fiber into two classes and places a label of apparent superiority on seedy wool, burry wool, dead wool, vat wool, shank wool, tags, etc., which range in price from 3 to 15 cents a pound, which utterly refutes their labeled claim of superiority. At the same time the bill compels the labeling of slubbing, laps, rovings, thread waste, and card fly wool as reworked (they are all new wool in the process of manufacture) though they are today selling on the market at 10 times the price per pound as the virgin wool previously listed.
>
> The sponsors of this bill maintain that it is designed to cure the manifest evils of misrepresentation which exist in the sale of articles of apparel. These evils are being curbed and gradually cured by the Federal Trade Commission which is issuing cease and desist orders in all cases of misrepresentation brought to its attention. The sponsors of this bill, however, insist that there are other misrepresentation practices with which the Federal Trade Commission is not able to deal. It is obvious that if such further misrepresentation does exist, the Federal Trade Commission is fully able to deal with it, since it is specifically given such power. But it is further obvious from a study of the record of the hearings that the sole type of misrepresentation which has been shown to exist is the type with which the Commission is already dealing, namely, the substitution of cotton and rayon fiber for wool or silk without proper disclosure of the fact. The essence of this bill lies in the fact that it attempts to make a distinction between wool fiber which has never been previously processed and fiber which has been subjected to certain manufacturing operations or, in some cases, to a certain amount of service. There can be no question of misrepresentation here, since there is not, and cannot be, a representation of the extent to which any particular fiber has been subjected to various manufacturing processes. Insofar as any such representation is in part made or implied, the Federal Trade Commission is adequately empowered to compel truthful representation.
>
> The question, then, is in no sense one of fraud or misrepresentation but one of possible benefit to the consumer. The alleged benefit to the consumer lies in the attempt to confine the use of the term "wool" to wool fiber which has never before reached the

fabric stage, hitherto referred to as "virgin wool." The promulgation of such a distinction in wool products—as distinguished from the fibers from which they are made—immediately gives an undeserved quality status to products made of "wool" (if that term is to be understood to mean "virgin wool") and a connotation of definite inferiority to products made in part of "reprocessed" or "reused" wool. The testimony indicates that the highest-priced products are usually made of new wool but likewise indicates quite clearly that many poor products are made of new wool and many superior products are made of reprocessed or reused wool. Were it possible to apply the superior-sounding term only to superior products, there might be something to be said for the distinction, but the bill proposes the application of the term "wool" or virgin wool not only to quality fabrics and other quality products but also to very inferior fabrics which happen to be made of new wool, no matter how inferior or unsuitable that wool may be or how carelessly or improperly it may be processed.

It is obvious from the testimony presented that propaganda which the proponents of the bill admit they have disseminated has already influenced consumers to such an extent that (if this bill is enacted into law) we can expect that those consumers will be victimized by poorly constructed and carelessly processed materials made from new wool of an inferior grade which, however, could technically qualify as entitled to use a label supposedly indicating quality, certainly the Government should not be a party to establishing a quality distinction between wool fibers unless the distinction is of such a nature that those products enjoying the quality designation are in reality quality products. In this connection it is a matter of prime importance to appreciate that not only is there no absolute relation between the newness of a wool fiber and its quality but the bill does not propose to apply the distinction to such fibers but to fabrics manufactured therefrom. Even if all new fibers were always superior to all reprocessed or reused fibers, the same relationship would not of necessity hold as to fabrics made from both types. Both proponents and opponents have testified that the processes of manufacture are of greater import in the determination of fabric quality than is the selection of the raw material. The raw material is naturally of substantial import, but to imply that it is the sole element in determining quality as is done by this bill is deception of the very type the Federal Trade Commission is seeking diligently to prevent.

Thus the bill not only does not prevent the only type of misrepresentation which various witnesses have alleged to exist but the bill actually provides Government sanction of a more subtle and misleading type of misrepresentation by giving a quality designation to products which do not of necessity merit such a quality rating.

This conclusion seems inescapable from an unbiased reading of the record. Nevertheless, even if it could be shown that there were valid arguments for making a distinction between new wool, reprocessed wool, and reused wool, there are compelling arguments against the passage of this bill.

Foremost among these is the fact that there is no physical or chemical test by which the newness of fibers can be ascertained after they have been processed and intermingled in a fabric. No expert could analyze within reasonable limits the wool fiber content of finished wool textile fabrics. If there is no discernible physical or chemical difference between a new and a remanufactured fiber in a fabric, there can be no possible advantage to the consumer in stating the percentage of either which may be present.

The second administrative objection to the bill lies in the impossibility of enforcement except by the establishment of a policing and enforcement agency of burdensome proportions. Since analysis of products would not indicate compliance or lack of it, there could be no enforcement except through a comprehensive supervision of records. There are some 400 wool textile mills and perhaps 400 additional establishments classified as cotton mills, hosiery, underwear, upholstery manufacturers, etc., who use wool fiber. This, however, is only a beginning since the product of these mills goes to thousands of manufacturers who make the articles into which these wool products go. These again are distributed through hundreds of thousands of separate retail establishments. To check and follow the multitudinous products of these hundreds of mills through these outlets would be an undertaking of the first magnitude requiring a field force which would certainly aggregate several thousands. Not even the exaggerated benefits claimed by the most ardent supporters of this bill would justify the creation of such a body of inspectors and investigators. This bill would in fact encourage the "bootlegging" of inferior fibers.

Another administrative difficulty lies in the fact that we would have no control over imported cloth and could not check the accuracy of the representations made by the manufacturers of imported cloth. The records of foreign manufacturers are not available to our agents, and it is obvious that foreign manufacturers, secure in the knowledge that their misrepresentations could not be detected, would claim that all their products were entitled to be labeled as composed exclusively of new wool. This would result in unfair and destructive competition for our own manufacturers if enforcement here were attempted on a scale which constituted a threat to a nonconforming domestic manufacturer or would force our own manufacturers to misrepresent in order to meet the importer on his own ground if enforcement proved to be the farce which we believe it would soon become. It is most unfair to place American manufacturers in a position where they must either cheat or see their own markets won by foreign manufacturers who are not obliged to observe the same standards.

The wool growers apparently desire this legislation because of their sincere belief that it would raise the price of wool and will thus add to their income. We are convinced this hope would not be realized if this bill were enacted but that the public would be required to pay more for their clothing, or rather compelled to buy less clothing because the quantity of wool bought depends on the consumer's ability to buy. If a man now buys a $20 suit because that is what he can afford to pay, you cannot legislate him into buying $30 suits.

This bill would be injurious to the cotton producer because 100,000,000 pounds of lint cotton is used annually in the manufacturing of mixed fabrics. This bill would lose that market to the cotton farmer.

We cannot conscientiously recommend the disruption of large and important industries, the arbitrary destruction of employers, the consequent unemployment of labor, and the harmful misleading of consumers on the doubtful chance that the price of wool might fractionally increase thereby.

Therefore, we believe that H. R. 944 should not pass.

Lyle H. Boren, Pehr G. Holmes, Carroll Reece, Martin J. Kennedy, Donald L. O'Toole, James Wolfenden, James P. McGranery, James W. Wadsworth, A. L. Bulwinkle, Carl Hinshaw.

Mr. THOMAS of Oklahoma. Mr. President, recently I have received numerous communications relative to this bill. Notwithstanding the fact that my State produces wool, I think the RECORD should show the objections to the bill as submitted by representatives of some of the leading mills of the country.

I first submit a letter from the Talbot Mills, of North Billerica, Mass., which I ask may be printed in the RECORD as part of my remarks.

The PRESIDING OFFICER. Without objection, the letter will be included in the RECORD.

The letter is as follows:

TALBOT MILLS,
*North Billerica, Mass., June 27, 1939.*

(S. 162 and H. R. 944.)

Hon. Senator ELMER THOMAS,
*Senate Office Building, Washington, D. C.*

DEAR SIR: I wish to respectfully record with you my objections to the legislation proposed by the above bills. Briefly, my objections are:

1. The attempt to distinguish between virgin wool and reclaimed or reworked wool will give an advantage to much unserviceable virgin-wool fiber, and will put at a disadvantage much worthy and serviceable reclaimed or reworked wool fiber.

2. Information as to the virgin or reclaimed content cannot be of value to the consumer, will mislead the consumer, and will cause the consumer to pay higher prices for fabrics or garments which may be even less serviceable.

3. The provisions of the bills cannot be enforced except at enormous expense to the Government, and it is extremely doubtful if they can be enforced at all.

I am heartily in favor of a law which will compel the labeling of fabrics and garments as to their content of wool, cotton, silk, and rayon. Such a law would be of value to the consumer and could be easily enforced.

Respectfully yours,

THOMAS T. CLARK, *Treasurer.*

Mr. THOMAS of Oklahoma. Second, I submit a letter from the Noyes-Gebhard Co., of Taunton, Mass.

The PRESIDING OFFICER. Without objection, the letter will be included in the RECORD.

The letter is as follows:

NOYES-GEBHARD CO.,
*Taunton, Mass., June 28, 1939.*

Hon. ELMER THOMAS,
*Senate Office Building, Washington, D. C.*

DEAR SIR: As members of the National Association of Wool Manufacturers, we have been requested to make known to you our objection to the wool labeling measures, S. 162 and H. R. 944. We are glad to do this. While we are in favor of supplying the public with the fullest information concerning products which it buys, we do believe that any labeling law so far suggested will result in a certain degree of deception to the public. Because the law will be obeyed by a majority of manufacturers and be violated by a small crooked fringe of the industry, we feel quite certain that the law will work a hardship to honest manufacturers.

With all due respect to the various experts who have testified at hearings, we do not know and do not believe that there is any very definite way of determining the wool, reworked wool, and wool waste content of various fabrics. This belief on our part is somewhat supported by the increased tolerance which is allowed for reworked wool, etc., as compared with the tolerance allowed for cotton and rayon content, which is very definitely determinable. In other words, what is the use trying to protect the American public in a matter which is not susceptible to very accurate determination?

Also, we doubt if there is any very worthy purpose to be served by a labeling law which distinguishes between wool, wool waste, and

reworked wool for the reason that a great many grades of reworked wool and wool waste are superior to some grades of virgin wool. There are whole classes of vat wool and tanners wool (virgin wools) that would satisfy a labeling act but which are infinitely inferior to many grades of select reworked wool and waste that are comparable in quality and price to virgin wool. Again, a labeling device distinguishing between the indistinguishable virgin wool, reworked wool, and wool waste would have a very definite tendency to increase the cost of clothing to the American public which we think would be a very great disservice by the Congress of the United States.

An admixture of various wool fibers would be about as indistinguishable one fiber from another as a pint of brewed tea mixed with a pint of water. That might be slightly exaggerated, but it is so much a parallel that you can readily see that fraud could not be easily detected, and in our industry, as in other lines, there is a crooked fringe that will do anything to make money.

It seems to us that the labeling bills are promoted primarily by the wool growers of the United States to increase the use and hence the value to them of virgin wool. Of late years they have been operating through consumers leagues, which are sincere in their efforts to promote labeling. The labeling proposals have been supported by at least one prominent manufacturing concern in the East, which has been keeping its mills afloat with Government money and which hopes to do a better job if the Government will further help them to kill competition by Government fiat. Government loans to industry have already retarded recovery and have rewarded the inefficient as against the efficient. The sooner most of this monkey business is cut out and the American people go back to work the sooner we will have some measure of prosperity.

It would seem to us that if the Congress wanted to do something constructive in behalf of the buying public, it might pass a labeling law calling for the approximate percentages of wool, silk, cotton, and rayon, and other fibers, if any. This would definitely protect the public and would be enforcible.

Very truly yours,

NOYES-GEBHARD CO.
L. N. GEBHARD.

Mr. THOMAS of Oklahoma. The third communication is a letter from W. J. Dickey & Sons, of Oella, Baltimore County, Md. I ask that the letter be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter is as follows:

OELLA, BALTIMORE COUNTY, MD., *June 28, 1939.*

Hon. Senator ELMER D. THOMAS,
*Senate Office Building, Washington, D. C.*

DEAR SIR: In behalf of our own business and in behalf of more than 400 employees whose livelihood depends largely upon the manufacture of fabrics containing reworked wool, we desire to register our opposition to the so-called truth-in-fabric bill, S. 162.

In the first place, there is no practical method, either by chemical analysis or by microscopic test, of ascertaining whether or not a given fabric contains reworked wool. Consequently to enforce the law would require an army of Government employees to police the mills of this country, while the absence of such an army would put a premium on fraud. Furthermore, it would be impossible to enforce the law against foreign manufacturers, who would thus be given an unfair advantage by being free to label their fabrics any way they chose.

Second, inasmuch as some reworked wools are superior to some virgin wools, labeling would confuse the customer and frequently prejudice him against a superior fabric.

Third, there is, of course, a wide range in the quality of fabrics made in this country, purposely, to suit a wide range of pocketbooks. The consumer's only interest, however, is that he should receive full value for his dollar, and this protection competition automatically provides him.

Very truly yours,

W. J. DICKEY & SONS, INC.,
By WM. A. DICKEY, Jr., *President.*

Mr. THOMAS of Oklahoma. The next letter is from the Colonial Woolen Mills Co., of Cleveland, Ohio. I ask that the letter be printed in the RECORD as part of my remarks.

The PRESIDING OFFICER. Without objection, the letter will be printed in the RECORD.

The letter is as follows:

THE COLONIAL WOOLEN MILLS CO.,
*Cleveland, Ohio, June 26, 1939.*

Hon. Senator ELMER THOMAS,
*Senate Office Building, Washington, D. C.*

DEAR SENATOR THOMAS: With reference to the wool-labeling bill measures, S. 162 and H. R. 944, which to date has not become a law, we wish to express our serious opposition of the passage of this bill for several good reasons.

We are manufacturers of bed blankets, automobile motor robes, men's overcoating and topcoating fabrics; also have made ladies' wear fabrics in the medium-price field. The reason for our strong opposition to this bill is that in most of our fabrics we use in the neighborhood of from 40 to 80 percent of all-wool reworked stocks, which enables us to put out this fabric so they can be made into garments, and the blankets and robes can be sold to the middle-class people at a price to fit their pocketbooks. If we were to manufacture an all-virgin-wool blanket, motor robe, or civilian fabrics from 100 percent virgin wool, it would be impossible for the medium class trade to pay the price. Nevertheless, we can give them practically the same wear a virgin-wool product will give them and at the same time make it possible for them to purchase same when they need them.

If a complete survey were made before passing on this bill of how many overcoats, top coats in both men's and women's wear garments, you would find that the percentage of virgin-wool fabrics would be less than 5 percent of the entire total. This 5 percent is being purchased by people of means, and if we were forced to make nothing but virgin-wool fabrics we would be forced to shut down our plant.

A fabric made of 50 percent of virgin wool and 50 percent of reworked wool in some instances makes a better fabric—will wear longer and retain its shape better than a virgin-wool fabric that is made of a fair quality of virgin wool. There are some virgin wools coming from various sections of the country that are poorer in quality than reworked wools. For your information we sight the following cases:

Short 6-months California wools, which are virgin wools, would not make as good a fabric as a white worsted thread waste garnett, as the white worsted thread waste is made from long-staple wool and the fiber, after being reworked, is from three to four times as long in staple as some of the virgin wools grown throughout the United States. The wearing qualities of a fabric made from this reworked wool would outlast any fabric that would be made from a short-staple virgin wool, and naturally be a better value.

This deception alone, if these fabrics were labeled according to the suggested bill, would be deceptive to the public and would invite chiseling. Furthermore, it would be impossible for any human being to be able to define a fabric and state whether there is any percentage of reworked wool in a fabric that is made of virgin wool and a good quality of reworked wool.

We think it would be very unfair to approve this bill, as there would be much chance for deception on the part of unbusinesslike and unethical manufacturers. Furthermore, after a fabric is made it is sold to clothing manufacturers and jobbers of materials, who are apt to sell to the small manufacturer coat lengths that they in turn will guarantee all-virgin wool, even though in the original sale the manufacturer of the cloth may have sold it to them labeled with a certain percentage of reworked wool. It would be impossible to trace all these sales, which naturally would invite full deception.

We sincerely believe that if this bill is adopted we would be forced to buy large quantities of foreign wools, as this country does not grow enough virgin wool to manufacture a major production of fabrics manufactured in this country.

It is very essential that reworked wool be used in order to consume the byproducts, and we should do everything possible to keep these byproducts from being shipped abroad and sold at ridiculously low prices for the benefit of foreign countries, when they can be put to good use for the benefit of ourselves.

When conditions are normal in this country we find that our inventories on virgin wool are very low, which means that they are being consumed practically at the rate they are grown. Statistics has proof of this, as practically no domestic wools are shipped abroad.

We earnestly request that you oppose this bill for the good of every United States citizen.

Sincerely yours,

THE COLONIAL WOOLEN MILLS CO.,
CARL J. HAHN, *President.*

Mr. THOMAS of Oklahoma. The next letter I offer is from M. T. Stevens & Sons Co., of North Andover, Mass.

The PRESIDING OFFICER. Without objection, the letter will be printed in the RECORD.

The letter is as follows:

M. T. STEVENS & SONS CO.,
*North Andover, Mass., June 26, 1939.*

Senator ELMER THOMAS,
*Senate Office Building, Washington, D. C.*

DEAR SENATOR: The concern which the writer represents, operating 9 mills in the New England States and giving employment at the present time to approximately 4,300 men and women, is definitely opposed to the wool-labeling bills S. 162 and H. R. 944. These bills attempt to define virgin wool. Because there is no method of determining virgin wool from reworked wool it would be impossible to decide whether any mill was not living up to the regulations.

We use a large amount of new wool, and in certain fabrics in order to meet a reasonable price, we blend reworked wool with the new wool. Many fabrics are improved in strength and wearing qualities by this mixture of wool fibers.

We are not opposed to the wool labeling of fabrics and believe that the customer is entitled to know the percentage of other fibers; such as, cotton, rayon, and silk, which might be mixed with wool. At the same time, we believe that the customer will be deceived into thinking he is buying a better garment if we are required to mark the percentage of virgin wool and other wool fibers.

We would definitely like to be recorded as vigorously opposed to the wool-labeling bill S. 162 because it attempts to describe the

difference between virgin wool and reworked wool, and there is no method known of determining this distinction.

Yours very truly,

M. T. STEVENS & SONS CO.,
ABBOTT STEVENS, *Treasurer.*

Mr. THOMAS of Oklahoma. The last letter I offer for the RECORD is one from the Appleton Woolen Mills, of Appleton, Wis. I ask also that this letter be printed in the RECORD as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter is as follows:

APPLETON WOOLEN MILLS,
*Appleton, Wis., June 27, 1939.*

In re S. 62, truth-in-fabrics bill.
Hon. ELMER THOMAS,
*Senate Office Building, Washington, D. C.*

DEAR SIR: We have noticed from various sources that this labeling regulations subject is again up in Congress. When the bill comes up for action we would appreciate your giving weight to the following items:

(1) No fair manufacturer objects to a practical truth-in-fabric bill if such can be worked out.

(2) The impracticability lies in the fact that research laboratories are unable to distinguish virgin from reworked wool.

(3) This statement is acknowledged by all reliable laboratories, including the Bureau of Standards.

(4) Because identification is impossible, such a law invites rather than stops unfair labeling of fabrics by those manufacturers who take advantage of this situation.

(5) Therefore the honest manufacturer is punished through being compelled to compete against an unfair fabric.

(6) Also there are two sources of wool:

(a) As clipped from the sheep;

(b) As pulled from the pelt of slaughtered animals.

(7) Proposed bill unfairly excludes pulled wool from being labeled virgin wool.

(8) Fair-practice rules must be workable or they are a decided detriment rather than a help.

(9) Although the high-quality wool wastes make a better fabric than low-quality virgin wool, public opinion feels that anything marked "virgin wool" is of superior quality.

(10) Manifestly American manufacturers would be subject to unfair foreign competition. A foreign manufacturer with impunity could avail himself of the virgin-wool label falsely, implying superior quality to wool fabrics, irrespective of the fiber content. This because there is no method of checking the truth of the statement as to fiber content by examination or test of the fabric, and the Commission has no access to the records of foreign manufacturers.

Yours very truly,

APPLETON WOOLEN MILLS,
A. H. WICKESBERG, *Treasurer.*

Mr. THOMAS of Oklahoma. Mr. President, I think everyone sympathizes with the effort to enact legislation which will afford the consumer an opportunity to know what he is buying. It is true that if we go to buy a piece of jewelry we must take the recommendation of the jeweler. If we go to buy a suit of clothes we must take the recommendation or the word of the clothing salesman. This bill, as I understand, is an effort to afford information to the consumer, the person who desires to buy a garment, as to what the garment is made of. So the bill is labeled "truth in fabric." The report submitted by the committee on the bill is headed "truth in fabric."

Mr. President, that being true, it seems to me that the Congress should try, if possible, to enact a law which would give the customer accurate information about the matter to which the bill pertains, and that is woolen products. I call the attention of the Senate to section 2 of the bill, which relates to definitions.

Subsection (b) of section 2 attempts to define wool. As defined, wool is "the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat and may include the so-called specialty fibers, namely, the hair of the camel, alpaca, llama, rabbit, and vicuna."

In subsection (c) of section 2, the term "virgin wool" is defined as "wool which has never been reclaimed from any spun, woven, knitted, felted, or otherwise manufactured product"; hence, goat hair, camel hair, alpaca hair, llama hair, rabbit hair, and vicuna hair, as defined in subsection (b), if same had not been reclaimed and had not been woven, knitted, felted, or otherwise manufactured, would be defined as "virgin wool."

Subsection (e) of section 2 attempts to define wool products, and such wool products are defined as "any product or portion of a product which contains, purports to contain, or in any way is represented as containing wool, but does not include carpets, rugs, and mats."

Mr. President, if these subsections remain in the bill, the Congress will have declared by a solemn enactment, first, that the hair of an Angora or Cashmere goat is wool—not virgin wool, but wool. Second, we shall have declared by virtue of a solemn statute that camel hair is wool, that alpaca hair is wool, that llama hair is wool, that rabbit hair is wool, and likewise that vicuna hair is wool.

Mr. President, I am not willing to cast my vote in favor of a section of law which declares that these articles—the hair of the goat, camel's hair, rabbit hair—are wool, and at the proper time I shall offer an amendment striking from this subsection all the portions of such subsection which seek to define the hair of the goat, the camel, and the rabbit as wool.

Subsection (e) is as follows:

> The term "wool product" means any product or portion of a product which contains, purports to contain, or in any way is represented as containing wool, but does not include carpets, rugs, and mats.

Mr. President, if this section stands, it means that any portion of a garment being wool, the whole garment becomes a wool product. It means that if someone even represents a portion of a garment to be wool, that garment is, under the law, a wool product. It means that advertising a garment to be wool, under this proposed law, makes of such garment a wool product.

Mr. President, I do not believe that is the intent of the Senate in enacting this piece of legislation. Subsection (c) defines virgin wool as follows:

> The term "virgin wool" means wool which has never been reclaimed from any spun, woven, knitted, felted, or otherwise manufactured product.

If these three sections should be enacted into law it would be possible for anyone to take an old pair of worn-out overalls and put on those overalls at least one patch of rabbit fur, and thereafter he could legally advertise that garment as a virgin-wool garment. [Laughter] That cannot be denied, because the sections are clear. Under subsection (e) of section 2 any garment which contains any wool is a wool garment; and rabbit hair, being classified under this bill as wool—and obviously the rabbit hair still on the skin could not have been processed—such rabbit hair could not have been spun into yarn or woven into cloth. I am sure the proponents of the bill did not mean to have this bill so loosely drawn that such an interpretation could possibly be made.

Mr. President, I call up an amendment I have lying on the table, and offer it as a substitute for the first amendment of the committee. It is an amendment to subsection (b) of section 2. The amendment of the committee is to strike out the word "shall" and to insert the word "may." I offer a substitute amendment to strike out the language containing both the words "shall' and "may," and I think it is in order at this place.

Mr. O'MAHONEY. Let the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated, but the Chair is of the opinion that the amendment will not be in order as in the nature of a substitute for the first amendment of the committee.

Mr. THOMAS of Oklahoma. Technically, the committee would have the right to perfect the section by having the amendment adopted striking out the word "shall" and inserting the word "may." Then I would have an opportunity to offer an amendment to strike out the portion of the section, as amended. The Chair is correct.

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from Oklahoma.

The LEGISLATIVE CLERK. On page 2, line 2, after the word "lamb", it is proposed to insert a period and to strike out the remainder of the subsection, as follows, "or hair of the Angora or Cashmere goat and shall include the so-called specialty fibers, namely, the hair of the camel, alpaca, llama, rabbit, and vicuna."

Mr. SCHWARTZ. Does the Chair rule that the amendment is in order?

The PRESIDING OFFICER. The Chair cannot rule until a point of order is made. The Chair has stated that he does not believe it is in order as a substitute.

Mr. SCHWARTZ. I make the point of order, not for the purpose of delaying, but merely for the purpose of getting a decision of the Chair.

The PRESIDING OFFICER. The point of order is sustained.

Mr. THOMAS of Oklahoma. The Chair is correct, and I shall adhere to the decision of the Chair. At a later time I will offer my amendment.

The PRESIDING OFFICER. The clerk will state the first amendment of the committee.

The first amendment of the Committee on Interstate Commerce was, under the heading "Definitions", on page 2, line 3, after the word "and", to strike out "shall" and insert "may," so as to read:

*Be it enacted, etc.*, That this act may be cited as the "Wool Products Labeling Act of 1939."

DEFINITIONS

SEC. 2. As used in this act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise, plural or singular, as the case demands.

(b) The term "wool" means the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat and may include the so-called specialty fibers, namely, the hair of the camel, alpaca, llama, rabbit, and vicuña.

The amendment was agreed to.

Mr. THOMAS of Oklahoma. Mr. President, unanimous consent has not been given to pass upon committee amendments first, I understand.

The PRESIDING OFFICER. The Chair is informed that that order has not been entered.

Mr. THOMAS of Oklahoma. Would it not be in order now for me to offer my amendment to subdivision (b) as amended?

The PRESIDING OFFICER. That would be in order.

Mr. THOMAS of Oklahoma. I offer the amendment at this time.

The PRESIDING OFFICER. The amendment will again be stated.

The LEGISLATIVE CLERK. On page 2, line 2, after the word "lamb", it is proposed to insert a period and to strike out the remainder of the subsection.

Mr. SCHWARTZ. Mr. President, I hope the amendment will not be agreed to, because the inclusion of these different words under the designation "wool" is in order to bring them within the term "wool product," which occurs later, and thereby require that they may be labeled. Of course, some of these fibers, such as the wool of alpaca, the wool of the camel, and especially the wool of the vicuña, are fine grades of wool, although they are generally called "hair." The hair of the camel is frequently made into overcoats and garments of that kind, and the garments are then sold as wool garments.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. SCHWARTZ. I yield.

Mr. O'MAHONEY. Is it not the intention of the Senator to move to strike out the word "rabbit," and with that amendment will not the language cover the whole wool trade as it should be covered?

Mr. SCHWARTZ. That is my thought. We will ask to have the word "rabbit" stricken out, because as a result of the hearings we have been able to determine that rabbit hair, or fur, is used almost exclusively in hats, and it is not a fiber which is woven, spun, or otherwise made into cloth, as a rule.

Mr. FRAZIER. Mr. President, will the Senator from Wyoming yield?

Mr. SCHWARTZ. I yield.

Mr. FRAZIER. The Senator from Wyoming stated that the purpose of the inclusion of these various words in the amendment of the committee was in order to have them applied in a definition later in relation to the labeling. Will the goods be labeled to include camel's hair and the other things?

Mr. SCHWARTZ. No. I think I made my statement a little too broad. The purpose is to bring them within the term "wool product" as it appears in subparagraph (e), on page 2, line 14. The paragraph provides that a wool product is "any product or portion of a product which contains, purports to contain, or in any way is represented as containing wool." By including the fibers set out, it will result in their being classified as wool products.

Mr. FRAZIER. From the standpoint of the wool grower, I cannot see the advantage of having those products included.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma [Mr. THOMAS].

Mr. SCHWARTZ. I ask for a division.

On a division, the amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment of the committee.

The next amendment of the committee was, on page 2, in line 8, after the word "product", to strike out the comma and "but does not include wool wastes as defined herein"; in line 12, after the word "manufactured", to strike out the comma and "and includes wool wastes as defined herein", so as to read:

(c) The term "virgin wool" means wool which has never been reclaimed from any spun, woven, knitted, felted, or otherwise manufactured product.

(d) The term "reclaimed wool" means wool which has been made into a fibrous state after having been spun, woven, knitted, felted, or otherwise manufactured.

The amendments were agreed to.

The next amendment was, on page 2, in line 16, after the word "wool", to insert a comma and "but does not include carpets, rugs, and mats", so as to read:

(e) The term "wool product" means any product or portion of a product which contains, purports to contain, or in any way is represented as containing wool, but does not include carpets, rugs, and mats.

The amendment was agreed to.

Mr. THOMAS of Oklahoma. Mr. President, since subdivision (e) has been amended by the adoption of the committee amendment, I now call up my second amendment, and offer it as a substitute for subdivision (e).

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 2, line 14, it is proposed to strike out all of paragraph (e), lines 14 to 17, inclusive, as follows:

(e) The term "wool product" means any product or portion of a product which contains, purports to contain, or in any way is represented as containing wool, but does not include carpets, rugs, and mats.

And to insert the following:

(e) The term "wool product" means any product made from the fiber of the fleece of the sheep or lamb and containing the percentage of wool as provided in subsection (A) of paragraph (2) of section (4) of this act.

Mr. SCHWARTZ. Mr. President, I should like to have an opportunity to read the amendment, as it was stated very rapidly. I may be able to accept it.

Mr. THOMAS of Oklahoma. While the Senator is reading the amendment, I desire to make a statement as to what it provides.

Subsection (e) as printed in the bill, and as amended by the committee amendment, provides that any garment containing any part of wool is to be regarded as a wool product. It makes no difference how small a portion of wool the garment may contain, the fact that it contains some wool, any quantity of wool, makes the garment a wool product. But that is not all. Under the provision as it now stands before the Senate any product which purports to contain wool, or in any way is represented as containing wool, is a wool product.

I am not willing to go on record as declaring by law that an article which may be advertised as a wool product is a wool

product, or that one which contains a small portion of wool is thereby made a wool product.

On page 5 of the bill, subdivision (A) of subparagraph (2) attempts to define the percentage of wool which entitles a product to become a wool product. Subdivision (A) reads in part, as follows:

The percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percent of said total fiber weight.

That provision requires that a wool product must contain 95 percent of wool in order to entitle it to be a wool product, and if it does not contain that much, and is labeled as a wool product, it is a misbranded product.

I attempt in my amendment to apply the definition contained in lines 14, 15, and 16, on page 5, and the definition of a wool product in subsection (e) of section 2. If my amendment should be agreed to, it would simply mean that in order for a product to be labeled a wool product it must contain 95 percent of some kind of wool.

Mr. SCHWARTZ. Mr. President, the principal effect of the amendment would be to require that any product represented as a wool product would have to contain some wool.

We provide that a wool product shall be "any product or portion of a product which contains, purports to contain" wool, and so forth. Of course, if a product is represented as a wool product and has no wool in it at all, we want it to come within the provisions of the bill so that it will have to be labeled as to what is in it. I hope the amendment will not be agreed to.

The PRESIDING OFFICER (Mr. MILLER in the chair). The question is on agreeing to the amendment offered by the Senator from Oklahoma.

Mr. SCHWARTZ. I ask for a division.

On a division, the amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment of the committee.

The next amendment was, on page 2, after line 17, to strike out down to and including line 22, as follows:

(f) The term "wool wastes" means brush waste, burr waste, card waste, fly waste, woolen lap waste, oily waste, spinners' waste, yarn waste, woolen ring and roving wastes, so-called card strips, droppings, flocks, paint wool, tanners' wool, sweepings, and wool extract.

The amendment was agreed to.

The next amendment was, on page 4, in line 19, after the word "country", to strike out "if said wool product is not thereafter sold, or offered for sale, in the United States or any Territory thereof."

The amendment was agreed to.

The next amendment was, on page 4, after line 22, to strike out:

SEC. 4. For the purpose of this act a wool product shall be misbranded if not stamped, tagged, labeled, or otherwise identified in accordance with the following provisions of this section, and such rules and regulations hereunder and pursuant hereto as the Commission may prescribe, or if falsely or deceptively stamped, tagged, labeled, or otherwise falsely or deceptively identified, advertised, or represented.

(a) Each stamp, tag, label, or other means of identification shall be on or affixed to the wool product and shall show—

And to insert in lieu thereof:

SEC. 4. (a) A wool product shall be misbranded—

(1) If it is falsely or deceptively stamped, tagged, labeled, or otherwise identified.

(2) If a stamp, tag, label, or other means of identification, or substitute therefor under section 5, is not on or affixed to the wool product and does not show—

Mr. THOMAS of Oklahoma. Mr. President, there are a number of minor amendments on page 3 of the bill which I thought were to be acted upon. I desire to offer a new subsection to section 2, if that be in order.

Mr. O'MAHONEY. Mr. President, may I suggest that the more orderly procedure would be to go through with the committee amendments first and then consider any amendments that may be offered from the floor? May I suggest to the Senator in charge of the bill that he ask for unanimous consent to proceed with the committee amendments first?

Mr. THOMAS of Oklahoma. Mr. President, I have the floor and I have not yielded for that purpose.

Mr. O'MAHONEY. I beg the Senator's pardon. I thought the Senator had yielded.

Mr. THOMAS of Oklahoma. I have only one more amendment, and after that I shall offer none.

The PRESIDING OFFICER. Does not the Senator desire to have his amendment stated?

Mr. THOMAS of Oklahoma. Yes; but I wish first to make a very short statement. Section 2 contains a number of definitions of wool products. The first subdivision defines wool. The second subdivision defines virgin wool. Another subdivision defines wool products. The bill at no place defines virgin-wool products, and I desire at this time to offer a new subsection to section 2 attempting to define virgin-wool products.

The PRESIDING OFFICER. The amendment offered by the Senator from Oklahoma will be stated.

The CHIEF CLERK. On page 2, after line 17, it is proposed to insert the following new subsection:

The term "virgin-wool product" means any product which contains the percentage of virgin-wool fiber as required for wool products as defined in paragraph (A) of subsection (2) of section 4 of this act.

Mr. THOMAS of Oklahoma. Mr. President, just a word of explanation. On page 5, section 4, paragraph (2), in clause (A) the bill seeks to define the percentage necessary to entitle a product to be a wool product. I apply the same percentage to a virgin-wool product; and if the amendment should be adopted, it would simply mean that in order for a product to be labeled "virgin-wool product" it must have 95 percent of virgin wool in the product, the same as required of a wool product under section 4 of the bill.

Mr. SCHWARTZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Downey | King | Russell |
| Andrews | Ellender | La Follette | Schwartz |
| Ashurst | Frazier | Lee | Schwellenbach |
| Austin | George | Lodge | Sheppard |
| Bailey | Gerry | Logan | Shipstead |
| Bankhead | Gibson | Lucas | Stewart |
| Barbour | Gillette | Lundeen | Taft |
| Barkley | Glass | McCarran | Thomas, Okla. |
| Bone | Green | McKellar | Thomas, Utah |
| Borah | Guffey | McNary | Tobey |
| Bridges | Gurney | Maloney | Townsend |
| Bulow | Hale | Mead | Truman |
| Burke | Harrison | Miller | Tydings |
| Byrd | Hatch | Minton | Vandenberg |
| Byrnes | Hayden | Murray | Van Nuys |
| Capper | Herring | Norris | Wagner |
| Chavez | Hill | O'Mahoney | Walsh |
| Clark, Idaho | Holman | Overton | Wheeler |
| Clark, Mo. | Holt | Pepper | White |
| Connally | Hughes | Pittman | Wiley |
| Danaher | Johnson, Calif. | Radcliffe | |
| Davis | Johnson, Colo. | Reed | |

The PRESIDING OFFICER. Eighty-six Senators have answered to their names. A quorum is present.

Mr. AUSTIN. Mr. President, I oppose the amendment offered by the Senator from Oklahoma [Mr. THOMAS] for the following reasons:

It adds to the bill some more of the old fallacy relating to virgin wool as a trade-mark or trade label. Let me read it:

Add a new subsection to section 2:

"The term 'virgin wool product' means any product which contains the percentage of virgin-wool fiber as required for wool products as defined in paragraph (a) of subsection (2) of section 4 of this act."

That percentage is 95 percent. Therefore there is a new control, an additional control, over the product handled by the manufacturer, the merchant, and the consumer, namely, the label, "virgin-wool product." I think the bill was bad enough as it was before with the label "virgin wool." However, with the proposed amendment hitched on to it I think the monopoly of the manufacturers of virgin-wool products would be consolidated and strengthened.

I ask the Senator from Oklahoma if he will not please consider the wisdom of withdrawing his amendment?

Mr. THOMAS of Oklahoma. Mr. President, this bill is a most important piece of legislation. The bill was introduced early in the present session. The very able and active subcommittee held hearings. As a result of those hearings some 30 amendments were made to the bill as introduced. That is obviously evidence of the fact that the original bill had not been well considered. If 30 amendments resulted from the few brief hearings that were held, it is obvious to me that further consideration of the measure would bring forth some additional amendments.

I could not agree to vote for a legislative enactment that rabbit's hair is wool, and possibly virgin wool, and that camel's hair and goat's hair are wool, and possibly virgin wool. The Senate, by a vote earlier in the day, has declared that such products should not be labeled as wool at all, and that wool should be limited to fiber made from the fleece of a sheep or lamb. My understanding of wool is that it is something grown on the back of a sheep or lamb.

Mr. President, the committee brought forth a bill which did not clearly define a wool product; and at no place in the bill is it attempted to define a virgin-wool product. The purpose of the bill is to afford the consumer some knowledge of the article he is buying. If the consumer wants to buy an overcoat or a suit, he should know or have an opportunity to know the contents of the garment. Nowhere in the bill are the contents even sought to be defined.

It occurs to me that much progress has been made on this piece of legislation. I am of the opinion that much more progress could be made, and that the bill could be perfected by further consideration at the hands of the committee. So, at the request of a member of the subcommittee, I shall be only too glad to ask unanimous consent to withdraw the amendment; and I suggest to the minority member of the subcommittee the advisability of affording the Senate an opportunity to have the bill recommitted to the committee for further consideration, the committee to report back to the Senate within a week, or even less time.

Mr. AUSTIN. Mr. President, will the Senator yield?

Mr. THOMAS of Oklahoma. I yield.

Mr. AUSTIN. I have not the right to speak in my own time. If I speak at this time, it will have to be in the time of the Senator from Oklahoma.

Mr. THOMAS of Oklahoma. I shall be glad to have my time used for that purpose as long as the Chair will permit.

Mr. AUSTIN. Mr. President, I entirely agree with the Senator from Oklahoma that the education on this bill is not sufficient. I asked the author of the bill [Mr. SCHWARTZ], when he first asked the Senate to proceed to consider the bill, whether or not he was contemplating substituting the provisions of the House bill for those of the Senate bill. I regret that he said "No." My impression is that the House has advanced a step farther than has the Senate in the study of this subject. I think if we could only have an opportunity to put the two measures together, with the measure introduced by the distinguished Senator from Massachusetts [Mr. WALSH], and the suggestions which have crept out in the discussion, we might be able to frame a better bill.

Mr. President, I think every Member of the Senate will agree that we should proceed to the enactment of some such legislation, in the principle of which we all agree. The difficulty is that some of us think we have before us a bill which goes too far, a bill which is excessively regimenting in its character and exceptionally special in its privileges, and which benefits the wrong parties. As we see it, the bill is not well conceived to benefit the producer of wool. So I hope it may be possible to recommit the bill to the committee for further consideration.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. THOMAS] has withdrawn his amendment to section 2. The question now is on agreeing to the committee amendment to section 4, beginning in line 23, on page 4.

Mr. AUSTIN. Mr. President, may we have the amendment stated?

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, after line 22, it is proposed to strike out:

SEC. 4. For the purpose of this act a wool product shall be misbranded if not stamped, tagged, labeled, or otherwise identified in accordance with the following provisions of this section, and such rules and regulations hereunder and pursuant hereto as the Commission may prescribe, or if falsely or deceptively stamped, tagged, labeled, or otherwise falsely or deceptively identified, advertised, or represented.

(a) Each stamp, tag, label, or other means of identification shall be on or affixed to the wool product and shall show—

And insert:

SEC. 4. (a) A wool product shall be misbranded—

(1) If it is falsely or deceptively stamped, tagged, labeled, or otherwise identified.

(2) If a stamp, tag, label, or other means of identification, or substitute therefor under section 5, is not on or affixed to the wool product and does not show—

Mr. O'MAHONEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. O'MAHONEY. When the absence of a quorum was suggested, there was pending an amendment offered by the Senator from Oklahoma [Mr. THOMAS]. Has that amendment been withdrawn?

The PRESIDING OFFICER. The Senator from Oklahoma withdrew his amendment.

Mr. O'MAHONEY. And the Senate is now proceeding to consider committee amendments?

The PRESIDING OFFICER. The Senate is now proceeding to consider committee amendments.

Mr. O'MAHONEY. I ask unanimous consent that the Senate may proceed to the consideration of committee amendments before any other amendments may be offered from the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming? The Chair hears none, and it is so ordered.

The question recurs on the amendment of the committee last stated.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment reported by the committee.

The next amendment was, on page 6, after line 5, to strike out:

(3) In the case of yarn, the name of the manufacturer thereof, and in the case of other wool products, the name of the manufacturer of the woven, knitted, or felted product.

(b) Where the term "wool," "woolen," or "worsted," or any trade name, pictorial representation, term, or descriptive name suggesting or implying the presence of wool is used in connection with a wool product containing a fiber other than wool, the percentages by weight of the separate wool contents thereof shall be shown in words and figures equally conspicuous: *Provided*, That nothing herein shall limit other provisions of this section.

(c) No trade name, term, descriptive name, or other representation, suggesting or implying that a wool product is made of virgin wool shall be used in connection with any wool product unless the percentage by weight of the virgin wool content thereof is set forth in words and figures equally conspicuous, or unless the total fiber weight of such wool product is 100 percent virgin wool, exclusive of ornamentation not exceeding 5 percent of said total fiber weight.

The amendment was agreed to.

The next amendment was, at the top of page 7, to insert:

(C) The name of the manufacturer of the wool product and/or the name of one or more persons subject to section 3 with respect to such wool product.

(3) In the case of a wool product containing a fiber other than wool, if the percentages by weight of the wool contents thereof are not shown in words and figures equally conspicuous with any trade name, pictorial representation, term, or descriptive name, suggesting or implying the presence of wool, used in connection with such wool product.

(4) In the case of a wool product represented as virgin wool, if the percentages by weight of the virgin-wool content thereof are not shown in words and figures equally conspicuous with any trade name, pictorial representation, term, or descriptive name, suggesting or implying such wool product is virgin wool, or if the total fiber weight of such wool product is not 100 percent virgin wool, exclusive of ornamentation not exceeding 5 percent of said total fiber weight.

(b) In addition to information required in this section, the stamp, tag, label, or other means of identification, or substitute therefor under section 5, may contain other information not violating the provisions of this act or the rules and regulations of the Commission.

(c) If any person subject to section 3 with respect to a wool product finds or has reasonable cause to believe its stamp, tag, label, or other means of identification, or substitute therefor under section 5, does not contain the information required by this act, he may replace same with a substitute containing the information so required.

Mr. SCHWARTZ. Mr. President, I understand the Senator from Illinois [Mr. LUCAS] desires to offer a substitute for the first three lines which the committee amendment proposes to insert. Would it be in order now for him to do so?

The PRESIDING OFFICER. It would be in order if it is an amendment to the committee amendment.

Mr. LUCAS. Mr. President, I offer an amendment to the committee amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The CHIEF CLERK. In the committee amendment, on page 7, it is proposed to strike out lines 1 to 3, inclusive, and in lieu thereof to insert:

(C) Either the name of the manufacturer of the wool product, or the name of one or more persons subject to section 3 with respect to such wool product, or the name of said manufacturers, and the names of one or more of such other persons.

Mr. LUCAS. Mr. President, this is more or less of a clarifying amendment and does not change, in my opinion, the objective of the committee amendment. I understand the amendment is satisfactory to the Senator from Wyoming.

Mr. SCHWARTZ. It is satisfactory to me.

Mr. AUSTIN. Mr. President, I ask that the amendment again be stated.

Mr. BARKLEY. Mr. President, before that shall be done, as I have to leave the Chamber for a committee meeting, I wish to make merely a brief statement regarding the pending bill.

The statement has been made within the past few minutes on the floor that the education of Congress on legislation of this character is incomplete. That statement may be made perhaps with as much propriety 10 years or 20 years from now as it can be made today. Some 20 years ago, when I was a Member of the House of Representatives, I was chairman of the subcommittee of the Committee on Interstate and Foreign Commerce to consider truth-in-fabrics legislation, misbranding legislation, and various kinds of similar legislation designed to bring about labeling of merchandise so that the purchaser would know what it contained. There were introduced pure-silk bills, pure-leather bills, pure-wool bills, pure-cotton bills, and various other bills dealing with single subjects and dealing with the question of misbranding generally. I held hearings for many weeks and obtained a great deal of information on the subject of misbranding and on the relative merits of reworked products of various kinds.

I recall that there was testimony showing that a shoe, for instance, made of all leather was not so good as a shoe made mainly of leather, but with the heel and toe made of fabric that would hold up the shoe. The testimony showed, I think, that a heel and toe made of leather would not be so satisfactory because it would not hold up the toe and it would not hold up the heel. The question of whether certain types of virgin wool are inferior to reworked wool, called shoddy, was gone into at some length, but there was no agreement, there is not now agreement, and probably there never will be full agreement, as to whether certain types of reworked wool may be superior in wearing quality to certain types of wool taken from a certain portion of the sheep, which may be called virgin wool, and as to whether, if we require the labeling of any garment so as to show the proportion of reworked wool and of virgin wool, it would create a prejudice against the article in the minds of the consumer. Probably it would. If I went downtown to buy a suit of clothes and it was labeled "reworked wool," I would probably be prejudiced against it in favor of another suit made entirely of virgin wool, although the virgin wool might be taken from a portion of the sheep which would make it inferior in quality to the reworked wool, depending entirely upon the quality of the reworked wool, its fiber, and many other factors. So the time will never come, I fear, when there will be universal agreement on what kind of legislation is wise and on the relative merits of certain inferior qualities of virgin wool and certain superior qualities of reworked wool. So that the process of investigation and argument probably will go on forever until we have a test of some kind by the enactment of a law on the subject.

I rose merely to say that I intend to support the pending bill, in order that there may be enacted by the Congress a statute which will afford a test in determining how far we can and should go in notifying the public what it is buying and what constitutes the fiber that goes into a garment.

I remember years ago I introduced, and undertook to secure the passage of, a bill punishing all manner of misbranding. It was my theory that we cannot require the labeling of all articles in commerce such as a piano, or many other things—women's garments, for instance. It might even disfigure them to put a label on them stating what they are made of. But I think we have got to make a start; we have got to test this idea at some time; and I am going to vote for this bill because, if enacted, I believe that it will afford a test which will assist in determining the fallacy or wisdom of the passage of such legislation on its merits with respect to wool. I wanted to make this statement now because I have to leave the Chamber.

Mr. AUSTIN and Mr. CHAVEZ addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kentucky yield; and, if so, to whom?

Mr. BARKLEY. I yield first to the Senator from Vermont, who first rose.

Mr. AUSTIN. Mr. President, I know of the extensive period of study the Senator from Kentucky has given on this subject. I was aware of the fact that, as an honorable and distinguished Member of the House of Representatives, the bill to which he has referred and of which he was the author was reported favorably by the House Commerce Committee in 1916, and I have already called attention to the fact that Congress has been intermittently studying the subject ever since. I wish to know whether the Senator can tell us, out of his abundant knowledge and experience, how much, if any, the market for cotton would be impaired if one of the effects of the operation of this bill should be to reduce the production of goods made of mixtures of cotton and wool?

Mr. BARKLEY. That is a speculative question, of course, and I will have to give a speculative answer; I cannot be definite about it. The reaction against the sale of goods of mixed fibers comes about because of psychological reasons. Anybody would prefer, theoretically and on the surface, to have a suit of clothes or any other garment made of wool to one made of cotton. Wool is supposed to be superior. There is a certain wearing quality, a certain appearance, a certain resiliency about wool that is not so apparent in the case of cotton. Of course, if there is a large proportion of cotton as compared to wool used in providing the mixture, it would undoubtedly detract from the salability of the mixed garment; and, of course, the ability to buy, purchasing power, enters into the equation as well as the matter of pride which goes along with the purchase of garments, reflected in our appearance when we wear them. How far the operation of this prejudice against mixed garments would interfere with the market for cotton I do not know. Prejudice is, perhaps, the chief element, for, although I might know that a garment made altogether of cotton might last me longer and wear longer than one made of wool, the thought of having a suit of clothes made of cotton or even of a large proportion of cotton, is something against which we naturally and, I suppose, by inheritance and also because of pride and prejudice, to some extent, revolt. Due to those circumstances, the sale of cotton, to some extent, would probably be affected.

Mr. AUSTIN. May I ask the Senator if he can state whether it is correct that a hundred million pounds of cotton go into mixtures with wool annually?

Mr. BARKLEY. It has been a long time since I gathered the figures, but I would not in any way dispute the figures

given by the Senator. A very large quantity of cotton goes into the manufacture of garments that are made of mixed wool and cotton.

I now yield to the Senator from New Mexico.

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired on the bill.

Mr. BARKLEY. I will take 10 minutes on the amendment and yield to the Senator from New Mexico.

Mr. CHAVEZ. Mr. President, I want to make a brief observation. As I understand, the purpose of the bill is not to prohibit the manufacture of any fabric rebuilt or remade or whatever it may be desired to call any fabric made from nonvirgin wool. The only object is to make the manufacturers and sellers tell the truth about what is in a fabric. That is not at all contrary to what we have done in the past. If any housewife in Washington goes to a grocery store and asks for a bottle of grape jelly, the law now provides that on the label on the jar it shall be stated how much grape there is in the particular jelly and also whether it contains any other ingredients. Any housewife, when she goes to a grocery store and buys a bottle of ketchup, knows just exactly how much tomatoes the bottle of ketchup contains.

There is nothing out of the ordinary in the provisions of this bill. It does not even prohibit or inhibit the manufacture of shoddy cloth or made-up cloth; but we want those who make it to tell the truth about it.

Yesterday afternoon I heard a Senator say that the bill was only for the benefit of the wool grower. If we protect the grape producer or any other producer, there is no reason whatever why the wool growers in Arizona and other States should not be protected in the same way. We do it every day in the week. When a housewife goes to a grocery store she knows whether a bottle labeled "grape jelly" contains grapes or contains some other kind of material.

Mr. BARKLEY. There are, and have been for a long time, two theories about legislation of this character. One is the theory that we should prevent the actual misbranding of articles without requiring them to be branded, so that if they are branded, they shall be properly and truthfully branded. The other theory is that we should require branding, and stipulate that in the brand there shall be stated just what goes into the manufacture of the product. There has been a debate between those two theories, I know, for 25 years, ever since I came to Congress.

There is another thing that I think we have to keep in mind in order to be fair, and that is that there is not sufficient wool produced in this country to provide all the clothing the people need. In order to provide the necessary amount of clothing there must be some mixture, and some reworked wool must be used in the product. The testimony before the subcommittee in the House, of which I happened to be chairman years ago, showed that the annual production of wool was not sufficient, if all other materials were excluded, to provide the clothing for the American people.

Mr. CHAVEZ. Mr. President, will the Senator further yield?

Mr. BARKLEY. Yes.

Mr. CHAVEZ. Does the Senator think that in order to create a market for the other materials which are absolutely necessary, it would be necessary to deceive the people about what they are buying?

Mr. BARKLEY. No; I do not think so, and that is why I am going to vote for this bill. Much may be said in favor of positively notifying the purchaser what is in a garment he is contemplating purchasing; but I think we also should admit, in fairness, that when we go into a store to buy a garment, if the word "shoddy" is written on it, the chances are that prospective purchasers will hesitate to buy it. They may even be willing to buy an inferior garment, if they think it is all virgin wool, rather than to buy one that is made up partly of virgin wool and partly of reworked wool.

Mr. CHAVEZ. Mr. President——

Mr. BARKLEY. I yield.

Mr. CHAVEZ. Would not a housewife be prejudiced if she saw on the label that what purported to be jelly contained gelatin instead of grape juice?

Mr. BARKLEY. I will say to my friend from New Mexico that that is a different type of product. Anyone who goes to buy catsup wants to know and does know that it is made up very largely of tomatoes. Gelatin, of course, is not a vegetable product. It is an animal product. It is not taken from any vegetable that I know anything about, except in a very indirect way, after it has produced fat and hoof and other things on an animal of some sort.

Mr. CHAVEZ. But is not gelatin a substitute for a vegetable product?

Mr. BARKLEY. It is.

Mr. CHAVEZ. Just as shoddy is a substitute for virgin wool.

Mr. BARKLEY. Undoubtedly it is a substitute, but I think most American housewives know the difference between gelatin and jelly, or jam, or preserves, or any similar product.

Mr. CHAVEZ. Should they not know whether they are getting real wool or something else?

Mr. BARKLEY. I think so. I think the preponderance of the argument is in favor of notifying the public what they are buying; but for a while there undoubtedly will be some unfavorable reactions toward certain commodities, especially wearing apparel, which may adversely affect the market for them until the public is even further educated than at present. Nevertheless, I am going to vote for the bill, because I think there is more to be said for it than can be said against it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois [Mr. LUCAS] to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The next amendment reported by the committee will be stated.

The next amendment was, under the heading "Affixing of stamp, tag, label, or other identification", on page 8, line 24, after the word "person", to strike out "introducing, or"; in line 25, after the word "introduction", to insert "or first introducing"; on page 9, line 2, after the word "same", to insert "containing identical information with respect to content of the wool product, and other information required under section 4"; after line 7, to strike out:

> Such substitutes shall contain the identical information required by this act to be on the original stamp, tag, label, or other means of identification, and may contain other information not violating the terms of this act or rules and regulations of the Commission.

And in line 15, after the word "product", to strike out "as required by this act, except in accordance with the provisions of this section" and insert "with intent to violate the provisions of this act", so as to make the section read:

> SEC. 5. Any person manufacturing for introduction, or first introducing into commerce a wool product shall affix thereto the stamp, tag, label, or other means of identification required by this act, and the same containing identical information with respect to content of the wool product, and other information required under section 4, or substitutes therefor shall be and remain affixed to such wool product, whether it remains in its original state or is contained in garments or other articles made in whole or in part therefrom, until sold to the consumer.
>
> Any person who shall cause or participate in the removal or mutilation of any stamp, tag, label, or other means of identification affixed to a wool product with intent to violate the provisions of this act, is guilty of an unfair method of competition, and an unfair and deceptive act or practice in commerce within the meaning of the Federal Trade Commission Act.

Mr. SCHWARTZ. Mr. President, through an error in preparing the copy for the printer, the words "containing identical information with respect to content of the wool product, and other information required under section 4" were placed in lines 2, 3, and 4. Those words should have been inserted after the word "therefore" in line 4.

The PRESIDING OFFICER. Without objection, the transposition will be made. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The next amendment was, under the heading "Condemnation and Injunction Proceedings," on page 11, line 15, after the word "Any", to strike out "misbranded"; in line 19,

after the word "if", to insert "the Commission has reasonable cause to believe", and in line 22, after the word "commerce", to insert "in violation of the provisions of this act, and if after notice from the Commission the provisions of this act with respect to said products are not shown to be complied with", so as to make the section read:

SEC. 7. (a) Any wool products shall be liable to be proceeded against in the district court of the United States for the district in which found, and to be seized for confiscation by process of libel for condemnation, if the Commission has reasonable cause to believe such wool products are being manufactured or held for shipment, or shipped, or held for sale or exchange after shipment, in commerce in violation of the provisions of this act, and if after notice from the Commission the provisions of this act with respect to said products are not shown to be complied with. Proceedings in such libel cases shall conform as nearly as may be to suits in rem in admiralty, and may be brought by the Commission.

If such wool products are condemned by the court, they shall be disposed of, in the discretion of the court, by destruction, by sale; by delivery to the owner or claimant thereof upon payment of legal costs and charges and upon execution of good and sufficient bond to the effect that such wool products will not be disposed of until properly stamped, tagged, labeled, or otherwise identified under the provisions of this act; or by such charitable disposition as the court may deem proper. If such wool products are disposed of by sale, the proceeds, less legal costs and charges, shall be paid into the Treasury of the United States.

(b) Whenever the Commission has reason to believe that—

(1) Any person is violating, or is about to violate, sections 3, 5, 8, or 9 of this act, and that

(2) It would be to the public interest to enjoin such violation until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint dismissed by the Commission or set aside by the court on review, or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act, the Commission may bring suit in the district court of the United States or in the United States court of any Territory, for the district or Territory in which such person resides or transacts business, to enjoin such violation, and upon proper showing a temporary injunction or restraining order shall be granted without bond.

The amendment was agreed to.

The next amendment was, under the heading "Guaranty," on page 14, after line 11, to strike out:

SEC. 9. No person shall be guilty of misbranding under this act if he establishes an acceptable guaranty, signed by the manufacturer, wholesaler, jobber, or other person residing in the United States, from whom a wool product was received, that said wool product, designated in the guaranty, is not misbranded under the provisions of this act, and also if he shows the exercise of due diligence and good faith with respect to said wool product and said guaranty.

Said guaranty, to be acceptable, shall contain the name and address of the manufacturer, wholesaler, jobber, or other person residing in the United States, from whom the said wool product was received; and the said manufacturer, wholesaler, jobber, or other person shall be amenable to prosecution and penalty which would attach in due course to any person violating the provisions of this act.

Any person who willfully furnishes a false guaranty under this section with reason to believe the wool products to which the false guaranty refers may be introduced, sold, transported, or distributed in commerce is guilty of an unfair method of competition and an unfair and deceptive act or practice in commerce within the meaning of the Federal Trade Commission Act.

And in lieu thereof to insert the following:

SEC. 9. (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the wool product guaranteed was manufactured and/or from whom it was received, that said wool product is not misbranded under the provisions of this act.

Said guaranty shall be either (1) a separate guaranty specifically designating the wool product guaranteed, in which case it may be on the invoice or other paper relating to said wool product; or (2) a continuing guaranty filed with the Commission applicable to all wool products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) Any person who furnishes a false guaranty, except a person relying upon a guaranty to the same effect received in good faith, signed by and containing the name and address of the person residing in the United States by whom the wool product guaranteed was manufactured and/or from whom it was received, with reason to believe the wool product falsely guaranteed may be introduced, sold, transported, or distributed in commerce, is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

Mr. SCHWARTZ. Mr. President, I desire to offer an amendment to the committee amendment. On page 15, line 14, after the word "manufactured", I move to insert "for introduction into commerce", and in line 15, after the word "received", I move to add "in commerce."

The amendment to the amendment was agreed to.

Mr. SCHWARTZ. The same words should be inserted on page 16. In line 5, page 16, after the word "manufactured", I move to insert "for introduction into commerce", and in line 6, after the word "received", I move to insert "in commerce."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was, under the heading "Criminal Penalty", on page 16, line 13, after the word "who", to insert "willfully"; in line 14, after the numeral "9", to insert "(b)"; and after line 18, to strike out:

Whenever the Commission has reason to believe any person is liable to penalty under this section, it shall certify all pertinent facts to the Attorney General, whose duty it shall be to have appropriate proceedings brought for the enforcement of the provisions of this act.

And insert:

Whenever the Commission has reason to believe any person is guilty of a misdemeanor under this section, it shall certify all pertinent facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

So as to make the section read:

SEC. 10. Any person who willfully violates sections 3, 5, 8, or 9 (b) of this act shall be guilty of a misdemeanor and upon conviction shall be fined not more than $5,000, or be imprisoned not more than 1 year, or both, in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this act.

Whenever the Commission has reason to believe any person is guilty of a misdemeanor under this section, it shall certify all pertinent facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

The amendment was agreed to.

The PRESIDING OFFICER. That concludes the committee amendments.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read three times, the question is, Shall the bill pass?

Mr. THOMAS of Oklahoma. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. FRAZIER (when Mr. NYE's name was called). My colleague [Mr. NYE] is absent. If he were present he would vote "yea."

Mr. LUCAS (when Mr. SLATTERY's name was called). My colleague the junior Senator from Illinois [Mr. SLATTERY] is unavoidably detained from the Senate on important business. If he were present he would vote "yea."

The roll call was concluded.

Mr. AUSTIN. The Senator from Minnesota [Mr. SHIPSTEAD] is paired with the Senator from Virginia [Mr. GLASS]. The Senator from Minnesota would vote "yea" if present and permitted to vote, and the Senator from Virginia would vote "nay."

Mr. McNARY. On this bill I have a pair with the senior Senator from Mississippi [Mr. HARRISON]. I transfer that pair to the junior Senator from South Dakota [Mr. NYE], and vote "yea."

Mr. BRIDGES. I have a pair with the Senator from North Carolina [Mr. REYNOLDS]. Not knowing how he would vote, I withhold my vote.

Mr. MINTON. I announce that the Senator from Michigan [Mr. BROWN], the Senator from Ohio [Mr. DONAHEY], and the Senator from West Virginia [Mr. NEELY] are un-

avoidably detained from the Senate. I am advised that if present and voting, they would vote "yea."

The Senator from North Carolina [Mr. REYNOLDS], the Senator from New Jersey [Mr. SMATHERS], and the Senator from South Carolina [Mr. SMITH] are absent because of illness in their families.

The Senator from Arkansas [Mrs. CARAWAY], the Senator from Iowa [Mr. GILLETTE], the Senators from Virginia [Mr. BYRD and Mr. GLASS], the Senator from Mississippi [Mr. BILBO], and the Senator from West Virginia [Mr. HOLT] are absent on important public business.

The Senator from Mississippi [Mr. HARRISON], the Senator from New York [Mr. MEAD], the Senator from Utah [Mr. KING], the Senator from Louisiana [Mr. OVERTON], and the Senator from Georgia [Mr. RUSSELL] are detained in committee meetings.

Mr. WAGNER (after having voted in the negative). I am paired on this vote with the senior Senator from West Virginia [Mr. NEELY]. I inquire if the Senator from West Virginia has voted?

The PRESIDING OFFICER. The Chair is informed that the Senator from West Virginia has not voted.

Mr. WAGNER. I am told that if he were present he would vote in the affirmative. Therefore I withdraw my vote.

Mr. McKELLAR (after having voted in the affirmative). I inquire if the senior Senator from Delaware [Mr. TOWNSEND] has voted?

The PRESIDING OFFICER. The Chair is advised that the Senator from Delaware has not voted.

Mr. McKELLAR. I have a pair with the Senator from Delaware, which I transfer to the senior Senator from New Jersey [Mr. SMATHERS], and allow my vote to stand. I am advised that, if present and voting, the Senator from New Jersey would vote "yea."

Mr. THOMAS of Oklahoma (after having voted in the negative). I change my vote from "nay" to "yea."

The result was announced—yeas 48, nays 23, as follows:

YEAS—48

| | | | |
|---|---|---|---|
| Adams | Connally | La Follette | Pepper |
| Andrews | Downey | Lee | Pittman |
| Ashurst | Ellender | Logan | Schwartz |
| Barbour | Frazier | Lucas | Schwellenbach |
| Barkley | Green | Lundeen | Sheppard |
| Bone | Guffey | McCarran | Stewart |
| Borah | Hatch | McKellar | Thomas, Okla. |
| Bulow | Hayden | McNary | Thomas, Utah |
| Burke | Herring | Minton | Tobey |
| Capper | Holman | Murray | Vandenberg |
| Chavez | Hughes | Norris | Van Nuys |
| Clark, Idaho | Johnson, Colo. | O'Mahoney | Wheeler |

NAYS—23

| | | | |
|---|---|---|---|
| Austin | Davis | Hill | Truman |
| Bailey | George | Lodge | Tydings |
| Bankhead | Gerry | Maloney | Walsh |
| Byrnes | Gibson | Miller | White |
| Clark, Mo. | Gurney | Radcliffe | Wiley |
| Danaher | Hale | Taft | |

NOT VOTING—25

| | | | |
|---|---|---|---|
| Bilbo | Glass | Nye | Smathers |
| Bridges | Harrison | Overton | Smith |
| Brown | Holt | Reed | Townsend |
| Byrd | Johnson, Calif. | Reynolds | Wagner |
| Caraway | King | Russell | |
| Donahey | Mead | Shipstead | |
| Gillette | Neely | Slattery | |

So the bill (S. 162) was passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the bill (S. 2805) to authorize the attendance of the United States Naval Academy Band at the New York World's Fair on the day designated as Maryland Day at such fair.

The message also announced that the House insisted upon its amendment to the bill (S. 188) to provide for the administration of the United States courts, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. CELLER, Mr. CHANDLER, Mr. HOBBS, Mr. MICHENER, and Mr. GWYNNE were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. 4646) to provide means by which certain Filipinos can emigrate from the United States.

The message also announced that the House had agreed to the amendment of the Senate to each of the following bills of the House:

H. R. 4647. An act to increase the amount of Federal aid to State or Territorial homes for the support of disabled soldiers and sailors of the United States; and

H. R. 5137. An act to prohibit the purchase of beer on credit by retailers in the District of Columbia.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 2170) to improve the efficiency of the Coast Guard, and for other purposes, and it was signed by the Vice President.

ORDER OF BUSINESS

Mr. BARKLEY. Mr. President, I wish to make a very brief statement for the information of the Senate, inasmuch as I will have to leave the Chamber in a few moments to attend a committee meeting.

The Senator from Texas [Mr. SHEPPARD] desires to have a bill on the calendar taken up, and will move in a moment that the Senate proceed to its consideration. I do not think consideration of that bill will take long. The senior Senator from Arizona [Mr. ASHURST] desires to have a bill providing for some additional judges considered, following the disposition of the bill in which the Senator from Texas is interested, and it is entirely agreeable that that shall be done, with the understanding that if the consideration of that bill has not been concluded by the time the Committee on Banking and Currency reports the so-called lending bill, it may be set aside temporarily for consideration of the lending bill, because, that being a major piece of legislation, it is desired that it shall be considered as soon as it is possible to get it out of the committee. Whether the committee can report this week I am not certain, but I think it will report either tomorrow or early next week.

Mr. ASHURST. Mr. President, will the Senator yield so that I may make a statement?

Mr. BARKLEY. I yield.

Mr. ASHURST. Mr. President, the able Senator from Kentucky is entirely correct. After the measure which the Senator from Texas [Mr. SHEPPARD] desires to have considered shall have been disposed of I shall try to secure recognition to have Senate bill 2185 made the unfinished business. That is a bill providing for the appointment of several additional judges.

Mr. President, I am in honor bound to say that I promised the Senator from Utah that I would not ask for the consideration of the bill today or tomorrow; that I would not ask for its consideration until Monday. Am I correct about that?

Mr. KING. The Senator is correct, as he usually is.

Mr. ASHURST. But on Monday I should like, with the Senate's kind indulgence, to commence consideration of that bill, with the understanding that it will be laid aside for the lending and spending bill at any time any Senator demands that it may be laid aside.

Mr. BARKLEY. Mr. President, I should like to see whether action can be had on the judicial bill at a session tomorrow, which is Saturday, in order that we may take no chances on delaying the final adjournment of Congress. I was wondering whether it would not be possible to proceed tomorrow to consider this judicial bill. Could we not have a session tomorrow to dispose of that?

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BARKLEY. I do not have the floor.

Mr. ASHURST. I will yield in a moment. Let me say that there is no disposition on my part to crowd any Senator, even if I had the power to do so, but it seems to me that if the able Senator from Utah would be so gracious as to allow a session to be held tomorrow in order that we may

consider and finish the bill having to do with the appointment of judges, it could be acted upon in, perhaps, less than 3 hours.

Mr. KING. I may say to the Senator that the disposition of the bill, in my opinion, will not take very much time. It is a bill which ought not to pass, but undoubtedly it will be passed. I think perhaps in an hour, or 2 hours at the most, it will be disposed of next Monday.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. ASHURST. I yield to the Senator from New Mexico.

Mr. HATCH. Mr. President, it occurred to me that perhaps I should make a statement in connection with some business which may come before the Senate; in fact, I have made the request of the Senator from Texas [Mr. SHEPPARD] that as soon as his bill is made the unfinished business he yield to me in order that I may ask to have laid before the Senate certain amendments which were adopted by the House of Representatives on yesterday to Senate bill 1871. I intend to move to concur in those House amendments. In view of certain maneuvers which I have seen on the floor in the last few minutes, I am inclined to think that that motion might evoke at least some discussion. So I wish to say that I plan to make the motion just as soon as I possibly can do so.

Mr. ASHURST. I will say to the Senator from New Mexico that it is my purpose to ask him to assume the management of Senate bill 2185, providing for the appointment of new judges, because he was chairman of the subcommittee which considered the measure, and for the further reason that I was not able to give a great deal of attention to the bill. So I anticipate the Senator will have a pretty full day Monday.

Mr. BARKLEY. Mr. President, can we not take up the bill for consideration this afternoon and discuss it but not have a vote on it? It is now 20 minutes to 3 o'clock, and we should not quit at this time of the day and go over until tomorrow. The Senator from Arizona can bring up the bill to which he referred, and the Senator from Maryland [Mr. TYDINGS] has a matter to bring up. It may be that some part of the discussion on the judicial bill may be disposed of this afternoon.

Mr. ASHURST. Mr. President, let me say in answer to the Senator's statement that my attitude will be controlled entirely by the Senator from Utah [Mr. KING]. If he should object to the consideration of the bill this week, I am honor bound to respect his wishes. I hope the Senator from Utah will allow us to proceed this afternoon with the discussion of the bill. Time is getting short. The Senator from Utah is an able public servant. Frequently he and I do not agree, but I hope he will be gracious enough in these expiring hours of the Congress to permit discussion of the bill this afternoon.

Mr. BARKLEY. Mr. President, there is no more gracious and considerate Senator on the floor than is the Senator from Utah——

Mr. ASHURST. I think that is true.

Mr. BARKLEY. We sometimes disagree on legislative matters, but the Senator from Utah is always gracious and kind and considerate, and I would almost be willing to nominate him candidate No. 1 as being the most generous Member of this body.

Mr. ASHURST. After all those expressions of esteem, will not the Senator from Utah allow us to proceed with a consideration of the bill this afternoon?

Mr. KING. Waiving the question of graciousness and coming to the question at issue, I will say that I have no objection to the consideration of the bill this afternoon, with the understanding, because I have been assured that it will not come up until next week, that a vote will not be taken upon it until tomorrow or Monday.

Mr. ASHURST. Very good.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. ASHURST. I yield the floor.

Mr. DANAHER. Mr. President, will the Senator from Arizona tell us the legislative status of the bill to create an administrator for the United States courts?

Mr. ASHURST. That bill, as the Senator knows, passed the Senate and was sent to the House of Representatives. The House struck out all after the enacting clause of the Senate bill and inserted different language. The chairman of the Senate Committee on the Judiciary moved to concur in the House amendment, but, after a more careful investigation, he was convinced that such a motion should not have been agreed to, whereupon the able Senator from Nebraska [Mr. BURKE] moved to reconsider the vote by which the amendment was agreed to, to disagree to the amendment of the House, request a conference with the House thereon, and that conferees on the part of the Senate be appointed. The motions were agreed to, and conferees have been appointed. I am glad to say that the able Senator from Connecticut [Mr. DANAHER] is one of the conferees on that bill.

Mr. DANAHER. I thank the Senator from Arizona, but I asked the question because I feel that that bill has a very definite bearing on the matter of whether we should create additional Federal judges.

Mr. ASHURST. That may be. I yield the floor.

### DISCRIMINATION AGAINST GRADUATES OF CERTAIN SCHOOLS

Mr. SHEPPARD. I move that the Senate proceed to the consideration of Calendar No. 574, Senate bill 1610.

The PRESIDING OFFICER. The title of the bill will be read for the information of the Senate.

The CHIEF CLERK. A bill (S. 1610) to prevent discrimination against graduates of certain schools and those acquiring their legal education in law offices in the making of appointments to Government positions the qualifications for which include legal training or legal experience.

Mr. THOMAS of Oklahoma. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. THOMAS of Oklahoma. Is the motion debatable?

The PRESIDING OFFICER. The motion is debatable.

Mr. THOMAS of Oklahoma. Mr. President, I desire to debate the motion.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. THOMAS of Oklahoma. No; I will not yield now.

Mr. HATCH. Mr. President, a parliamentary inquiry.

Mr. McNARY. Mr. President, a parliamentary inquiry.

Mr. THOMAS of Oklahoma. Mr. President——

Mr. McNARY. I rise to a point of order. I object to any further proceedings until there is order in the Senate and the various Senators occupy their seats.

The PRESIDING OFFICER. The point of order is well taken. The Chair will recognize Senators as they address the Chair.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. HATCH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. Who has the floor?

The PRESIDING OFFICER. The Senator from Texas [Mr. SHEPPARD] has the floor.

Mr. HATCH. Mr. President, will the Senator from Texas yield?

Mr. SHEPPARD. I will yield for a moment in a moment. The Senator from Massachusetts desires to introduce a measure. I yield to him for that purpose, if there is no objection.

Mr. BARKLEY. Will the Senator yield before that is done?

Mr. SHEPPARD. I yield.

Mr. BARKLEY. I think in the interest of orderly procedure the Senate ought to dispose of the motion of the Senator from Texas to take up the bill before any unanimous-consent request is made for the introduction of bills or for the insertion of matters into the RECORD, or other matters. I believe that action should be taken before the Senator yields.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. McNARY. Mr. President, I ask for order.

Mr. THOMAS of Oklahoma. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The question is on the motion of the Senator from Texas. Without objection——

Mr. CLARK of Missouri. Mr. President, one moment. Reserving the right to object, I ask the Senator if he will yield?

Mr. SHEPPARD. I yield first to the Senator from Oklahoma [Mr. THOMAS].

Mr. THOMAS of Oklahoma. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. THOMAS of Oklahoma. I was advised that the motion was debatable.

The PRESIDING OFFICER. It is.

Mr. THOMAS of Oklahoma. I gave notice that I desired to debate the motion. A little while ago in the consideration of the truth-in-fabric bill the statement was made——

Mr. TYDINGS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. TYDINGS. I do not want to take the Senator from Oklahoma from the floor, but who has the floor?

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. TYDINGS. Has the Senator from Texas relinquished the floor?

The PRESIDING OFFICER. The Senator from Texas did not indicate any desire to retain the floor after the Chair stated the motion, and the Senator from Oklahoma is now recognized by the Chair.

TRUTH IN FABRIC—MOTION TO RECONSIDER

Mr. THOMAS of Oklahoma. Mr. President, I realize it is a rule of the Senate that a Senator must debate the question at issue, but the rule likewise provides that the Senator himself is the judge of the issue. In this particular I presume I may assume to be the judge of the issue I desire to discuss.

Mr. President, a little while ago the statement was made in connection with the debate on the truth-in-fabric bill that the passage of that bill would destroy a large demand for cotton. That argument has not been made heretofore. My State is a cotton-producing State. My State also produces wool. I do not know to what extent the enactment of this bill and its operation will destroy the demand for cotton; neither do I know how much it will destroy the demand for wool; and in order that I may for my satisfaction obtain some information about this matter I now enter a motion to reconsider the vote by which the so-called truth-in-fabric bill was passed.

Mr. O'MAHONEY. Mr. President——

The PRESIDING OFFICER. Let the Chair first make an inquiry. Does the Senator from Oklahoma make the motion to reconsider, or serve notice that he will make the motion?

Mr. THOMAS of Oklahoma. I enter the motion.

The PRESIDING OFFICER. The motion will be entered.

Mr. THOMAS of Oklahoma. I cannot ask for disposition of the motion until I obtain some information, and as yet I have had no chance to obtain it.

Mr. TYDINGS. Mr. President——

The PRESIDING OFFICER. The RECORD will show that the Senator from Oklahoma is entering the motion.

Mr. O'MAHONEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. O'MAHONEY. The parliamentary inquiry which I desire to address to the Chair is whether or not it will be possible, immediately after the motion is made, to move to lay the motion of the Senator from Oklahoma on the table.

The PRESIDING OFFICER. Not at this time, because another motion is pending before the Senate.

Mr. O'MAHONEY. I understand. I mean, at the time the motion is made.

The PRESIDING OFFICER. The entry of the motion is privileged. As soon as the motion now before the Senate is disposed of——

Mr. O'MAHONEY. Should notice now be given of an intention to move to lay on the table the motion of the Senator from Oklahoma?

The PRESIDING OFFICER. It is not necessary.

Mr. O'MAHONEY. That motion may be made when the motion of the Senator from Oklahoma is actually made?

The PRESIDING OFFICER. It may be made at any time, under the rules.

Mr. HATCH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from New Mexico wishes to make a parliamentary inquiry, which he will state.

Mr. HATCH. Was the motion of the Senator from Texas [Mr. SHEPPARD] agreed to; and is his bill now the pending business?

Mr. TYDINGS. It has not been agreed to.

Mr. SHEPPARD. The bill has not been taken up by the Senate.

Mr. HATCH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HATCH. Senate bill 1871 was passed by the House of Representatives yesterday with certain amendments. I am advised that a message from the House in that connection is now on the desk. Is it in order that that message be laid before the Senate for consideration at this time?

The VICE PRESIDENT. It is if the Senator from Texas [Mr. SHEPPARD] will yield for that purpose. Does the Senator from Texas yield?

ADDITIONAL CLERK HIRE—CONFERENCE REPORT

Mr. SHEPPARD. Mr. President, I ask for a vote on my motion.

Mr. BARKLEY. Mr. President, I suggest to the Senator from New Mexico that if the Senate is ready to vote on the motion of the Senator from Texas, it should do so before taking up the other matter.

Mr. HATCH. That is perfectly agreeable to me. I simply did not understand why there was so much commotion and desire to obtain the floor.

The VICE PRESIDENT. Let the Chair state the parliamentary situation.

The Senator from Texas [Mr. SHEPPARD] has made a motion to take up a certain bill. That motion is pending. It is subject to debate. Does any Senator desire to debate that motion?

Mr. TYDINGS. Mr. President——

The VICE PRESIDENT. The Senator from Maryland is recognized.

Mr. TYDINGS. In the present state of the parliamentary situation, is the consideration of a conference report in order?

The VICE PRESIDENT. It is.

Mr. TYDINGS. I submit the conference report on House bill 6205 and ask for its immediate consideration.

The VICE PRESIDENT. The report will be read.

The report was read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6205) to provide for additional clerk hire in the House of Representatives, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 3.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"SEC. 2. Section 1 of the Legislative Pay Act of 1929 (U. S. C., title 2, sec. 60 (a)), is amended by adding two new paragraphs under the caption 'Clerical Assistance to Senators,' as follows:

" 'Ninety-six additional clerks at $1,800 each, one for each Senator, in lieu of the assistant clerks now authorized by S. Res. 144, agreed to August 15, 1935, which resolution is hereby repealed as of January 1, 1940.

" 'Each Senator shall have one additional clerk at $1,500 per annum, and in addition thereto each Senator from any State which has a population of 3,000,000 or more inhabitants shall be entitled, in addition to the one clerical assistant provided for in this paragraph, to one additional clerk at the rate of $1,500 per annum.' "

And the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree

to the same with an amendment, as follows: In lieu of the figure "5" insert "4"; and the Senate agree to the same.

M. E. TYDINGS,
ALVA B. ADAMS,
JOHN H. OVERTON,
HARRY S. TRUMAN,
FREDERICK HALE,
STYLES BRIDGES,
*Managers on the part of the Senate.*

LINDSAY C. WARREN,
JOHN J. COCHRAN,
JAMES WOLFENDEN,
*Managers on the part of the House.*

The VICE PRESIDENT. Without objection, the conference report——

Mr. BARKLEY. Mr. President, I wish to make an inquiry of the Senator from Maryland with respect to the conference report.

As I understand, the bill originated in the House. The bill increased by one the number of clerks of Members of the House.

Mr. TYDINGS. That is correct.

Mr. BARKLEY. The Senate adopted an amendment to the bill which made permanent the employment of one clerk now temporarily allotted to each Senator.

Mr. TYDINGS. That is correct.

Mr. BARKLEY. And added another permanent clerk at the rate of $1,500 per year.

Mr. TYDINGS. That is correct; commencing in January 1940.

Mr. BARKLEY. Commencing next January.

Mr. TYDINGS. That is correct.

Mr. BARKLEY. In addition to that, the Committee on Appropriations of the Senate adopted an amendment providing for a research assistant, or clerk, or whatever he may be called, for the minority leader, and one for the majority leader.

Mr. TYDINGS. That is correct.

Mr. BARKLEY. As I understand, that provision was stricken out on the demand of the House conferees. What was the reason?

Mr. TYDINGS. I will say to the Senator from Kentucky that the word "demand" is rather strong.

Mr. BARKLEY. I will say on the insistence of the House conferees. I wish merely to state that it seems a little unusual for the House to take it upon itself to say that those amendments, amounting to $10,000 a year——

Mr. TYDINGS. And relating purely to Senate business.

Mr. BARKLEY. Relating purely to Senate business, and in the interest of efficiency, should not be agreed to. I am satisfied that the Senator from Oregon will corroborate my statement that it would be in the interest of efficiency on both sides of this Chamber if the Senator from Oregon [Mr. MCNARY] and I each had someone not connected with our offices whose only duty it would be to look after legislation, gather material, and put on our desks every day a brief, memorandum, or syllabus with respect to all the bills on the calendar, which would enable us to understand the legislative situation more intimately and thereby enable both of us the better to perform our duties. The Senate probably would be surprised to know that neither of us has any clerical assistance in addition to that allowed every other Senator.

Mr. TYDINGS. That is correct.

Mr. BARKLEY. My work has multiplied four times; and there are many occasions when I need information, when I cannot go to the Library or to one of the Departments to obtain it, due solely to physical lack of time. Because of that fact, I am wondering why the House conferees insisted that the Senate could not retain a little amendment of that kind for the assistance of the Senator from Oregon and myself in undertaking to perform efficiently our duties in the Senate.

Mr. TYDINGS. Will the Senator allow me to answer his question?

Mr. BARKLEY. In a moment. In that connection, I will say that for years the majority leader of the House has had an assistant. He came to me and told me personally that ever since the days when Representative Tilson, of Connecticut, was majority leader of the House, clerical assistance had been provided for the majority leader, and I think also for the minority leader. I recall that when I was in the House the minority leader was Hon. James R. Mann, of Illinois; and he was the most efficient legislator I have ever seen in any body. Every morning he had on his desk a résumé of every bill likely to come up, and every bill on the calendar. All the other Members were amazed that he should be able to obtain that information. We learned how he obtained it. He had a corps of assistants who did nothing except furnish him with such information. The majority leader of the House now has an assistant whose only duty is to brief and look after proposed legislation, and to put on his desk every day an outline of the bills which are likely to come up, so that he will know what is in them. I must say that I cannot quite understand why the House was not willing to accord to the Senate the same privilege.

Mr. TYDINGS. I think the Senator's observations are quite reasonable and sound. I will say to the Senator that the conferees who represented the Senate in this matter took the point of view he has expressed, first of all, that according to custom the Senate has a right to provide for its own employees without interference from the House, and that the House has a right to provide for its own employees without interference from the Senate. That has been the universal rule.

However, in the closing days of Congress there was a human factor involved with which the committee had to deal as a practical matter.

The bill originated in the House. It had to do only with the personnel employed by the House; and the House took the position that the Senate ought not to add such amendments to a bill having to do purely with a House matter. However, the Senate had already acted on the bill; and, of course, that complaint had to be dealt with in the light of realities.

Those who opposed the measure in the House did not particularly oppose any of the Senate amendments, but did object to the use of a bill having to do purely with a House matter, and dealing with the personnel of the House alone, as a vehicle to provide assistance in the transaction of Senate business. So when the conferees met we had that obstacle to overcome. The House would not have objected to any of the Senate proposals if the bill had been purely a Senate bill; but it did object to the Senate adding something to a House bill which dealt entirely with House personnel.

Mr. BURKE. Mr. President, will the Senator yield?

Mr. TYDINGS. I shall be glad to yield in a moment, if the Senator will permit me to finish my statement.

Mr. BURKE. Perhaps the Senator's statement will cover the matter I have in mind.

Mr. TYDINGS. There was some opposition in the House to the whole proposal, both to the increase in House personnel and to the increase in Senate personnel. The conference committee on the part of the Senate naturally wanted to save everything it could for the Senate. It was suggested to us that while the House had no right to object to any action taken by the Senate, if we should make the Senate amendments a separate matter the House would not object. We would then be in the position of providing only extra clerical assistance for the Senate, and the House would provide extra clerical assistance for the House. It was suggested that extraneous things such as assistants to the majority and minority leaders should be excluded from the bill, and that if we did not do so, as a practical matter we might run into opposition in the House which might defeat the entire proposal.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. Just one more sentence.

In view of the fact that Senators have been pressing me for 3 months to obtain the passage of some measure which would give them some additional clerical assistance, I had to be governed by the practical equations which existed in the conference; and I told the House conferees that, while it was outrageous that they should in this indirect manner

attempt to dictate to the Senate, I would accede to their request only because I could not accomplish anything without acceding to it; and that when the measure came over it would be the understanding that the House conferees would go along to provide the majority and minority leaders each with an assistant, to which they are entitled.

Mr. BARKLEY. Mr. President, may I ask the Senator another question?

Mr. TYDINGS. Certainly.

Mr. BARKLEY. The bill provides one additional clerk for each Senator, in addition to making permanent the employment of one clerk whose status is now temporary.

Mr. TYDINGS. That is correct.

Mr. BARKLEY. Also, in the offices of Senators from States whose population is 3,000,000 or more, provision is made for still another clerk.

Mr. TYDINGS. That is correct.

Mr. BARKLEY. I have not been able to find from an examination of the report the basis for determining whether or not a State has a population of 3,000,000 or more. Is the determination to be based upon the last census?

Mr. TYDINGS. The 1930 census. There will be a new census next year, and the 1940 census then will govern. The measure would become permanent law.

This matter did not originate with the present speaker. It originated with a group of Senators who represent large States, and who claim that with uniform office forces they cannot cope with the volume of mail coming into their offices. I remember that the Senator from California [Mr. DOWNEY] said that because of his activity in the Townsend old-age pension plan program he was the recipient of thousands upon thousands of letters which he could not even acknowledge with a postal card, due to his small office force. I recall that the Senator from Pennsylvania [Mr. GUFFEY] likewise gave figures as to the volume of his correspondence and asked that some relief be given to him. I recall, likewise, that the late Senator Copeland, of New York, for a number of years paid a part of his office force out of his own pocket in order to take care of his correspondence.

So when this matter was brought before the Committee on Appropriations the bill introduced, I think, by the Senator from Pennsylvania, was modified and the modified bill was in line with that described by the Senator from Kentucky. It became, therefore, my duty, as chairman of the subcommittee on the legislative appropriation bill, to do the best I could with it in conference. I rescued about 90 percent of it from complete slaughter, and, in view of all the circumstances, while I hated to let the majority and minority leaders down, we were on the battlefield, and, as a "better 'ole" was not to be found any place, that is the one we got into. [Laughter.]

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

The VICE PRESIDENT. The Chair would like to make a statement in connection with the conference report and this proposed legislation. Every Member of the House and every Member of the Senate has had his allowance for clerk hire increased except the Vice President. He was left off by his own consent. [Laughter.]

PROHIBITION OF PERNICIOUS ACTIVITIES

The VICE PRESIDENT. The question is on the motion of the Senator from Texas [Mr. SHEPPARD].

Mr. CLARK of Missouri. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. CLARK of Missouri. If the motion of the Senator from Texas should be adopted, making the school bill the unfinished business, would it then be in order at any time when any Senator could gain the floor to move to displace that measure and take up the House amendments to Senate bill 1871?

The VICE PRESIDENT. That is a privileged matter. It can be taken up now or after the vote on the motion of the Senator from Texas, either one. Being a privileged matter, if no Senator objects, the Chair will lay before the Senate the amendments of the House of Representatives to Senate bill 1871.

The amendments of the House of Representatives to the bill S. 1871, an act to prevent pernicious political activities, were, on page 2, line 2, after "Representatives", to insert "Delegates or Commissioners from the Territories and insular possessions"; on page 2, line 10, after "election", to insert "or the nomination"; on page 2, line 13, after "Representatives", to insert "Delegates or Commissioners from the Territories and insular possessions"; on page 2, line 13, to strike out all after "Representatives" down to and including "choose" in line 16; on page 2, lines 19 and 20, after "possible", to insert "in whole or in part"; on page 3, line 9, after "solicit", to insert "or receive"; on page 3, line 10, after "soliciting", to insert "or receiving"; on page 3, line 16, after "person", to insert "for political purposes"; on page 4, lines 11 and 12, to strike out "shall be deemed guilty of a felony"; on page 4, line 12, after "conviction", to insert "thereof"; on pages 4 and 5, to strike out all of section 9 and insert:

SEC. 9. (a) It shall be unlawful for any person employed in the executive branch of the Federal Government, or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No officer or employee in the executive branch of the Federal Government, or any agency or department thereof, shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects. For the purposes of this section the term "officer" or "employee" shall not be construed to include (1) the President and Vice President of the United States; (2) persons whose compensation is paid from the appropriation for the office of the President; (3) heads and assistant heads of executive departments; (4) officers who are appointed by the President, by and with the advice and consent of the Senate, and who determine policies to be pursued by the United States in its relations with foreign powers or in the Nationwide administration of Federal laws.

(b) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any act of Congress for such position or office shall be used to pay the compensation of such person.

On page 5, after line 3, to insert:

SEC. 9A. (1) It shall be unlawful for any person employed in any capacity by any agency of the Federal Government, whose compensation, or any part thereof, is paid from funds authorized or appropriated by any act of Congress, to have membership in any political party or organization which advocates the overthrow of our constitutional form of Government in the United States.

(2) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any act of Congress for such position or office shall be used to pay the compensation of such person.

On page 5, line 5, to strike out "any other sections"; and on page 5, line 6, to strike out "or of this act."

Mr. HATCH. I move that the Senate concur in the House amendments.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MINTON. Mr. President, wait a moment.

The VICE PRESIDENT. Is there objection?

Mr. MINTON. There is.

The VICE PRESIDENT. The Senator from Indiana.

Mr. HATCH. Mr. President——

Mr. MINTON. I yield to the Senator from New Mexico.

Mr. HATCH. Mr. President, in view of the objection of the Senator from Indiana [Mr. MINTON], perhaps I should explain briefly just what the House amendments are.

On April 13 this year the Senate passed, without a dissenting vote, on the regular call of the calendar, Senate bill 1871, introduced by the Senator from Texas [Mr. SHEPPARD], the Senator from Vermont [Mr. AUSTIN], and myself. On the day that vote was taken many Senators were on the floor, and they knew and understood what that bill concerned.

The next day the Senator from Pennsylvania [Mr. GUFFEY], who had been absent on the day the bill was passed, entered a motion to reconsider the vote by which the bill was passed. Later I was informed of the motion and of the action of the Senate and made some remarks upon the floor of the Senate. Still later the Senator from Pennsylvania, upon my

assurance that I was perfectly willing to go before the House committee and ask that policy-making officials be exempted from the prohibition of the bill, withdrew his motion to reconsider. Following that I met with the subcommittee of the House Judiciary Committee. I myself drew an amendment to section 9 of the bill which did exactly what I told the Senator from Pennsylvania I would do. It specifically exempted all policy-making officials of the United States from the prohibition of section 9.

The subcommittee of the House Judiciary Committee unanimously, Mr. President, adopted that proposed amendment. The chairman of that subcommittee was Mr. HEALEY, of Massachusetts, and one of the leading members was the Representative from Alabama [Mr. HOBBS]. With other members of the subcommittee, they so reported to the full Judiciary Committee of the House of Representatives. That report of the subcommittee, Mr. President, for some reason unknown to me, for the full committee met in executive session, was rejected by the full committee, and in lieu of the recommendation of their subcommittee the full committee eliminated from section 9 every vital part of that section. There can be no dispute about that. They completely, as I have said before, and now repeat, emasculated section 9, and they reported the bill to the House in that form.

On last night the House of Representatives, by decisive votes—not one, but several—rejected the philosophy of the House Committee on the Judiciary and accepted, Mr. President, the philosophy of the Senate of the United States as contained in section 9, and wrote almost identically, so far as meaning is concerned, the provisions which the Senate had accepted without a dissenting vote. That being the only matter of importance on which the House acted, the House of Representatives having accepted the bill which the Senate passed, today I have moved, Mr. President, not in order to carry out my will but to carry out the will of the Senate of the United States, to concur in the House amendments, which restate and do that which the Senate said was the right and proper thing to do.

I am advised, Mr. President, this day that there is now a move on foot in the Senate of the United States to assemble Senators and to pledge them to vote to send this bill to conference. For what? To carry out the will of the Senate? No, Mr. President; not to carry out the will of the Senate, but to kill and destroy section 9 of the Senate bill. Is there a Senator on the floor of the United States Senate who wants to take issue with that statement? If so, let him take issue, for the well-known fact is that practically every member of the House Committee on the Judiciary—and I cast no reflection on the honorable Members of the House of Representatives, who were exercising their rights, as they had to exercise them and which I have never denied or sought to deny—practically every member of the House Committee on the Judiciary, including members of the subcommittee, voted against the particular amendment which their subcommittee themselves had recommended.

Am I to be asked to go into conference on a matter about which there is no difference with a committee who have already voted against it and some of whom voted against the final passage of the bill?

Mr. President, let us not be misled by anything that may be said on the floor of the Senate today; let nobody be deceived by the issue that is confronted if it is sought to send this bill back to conference, for there is nothing to confer about. A vote to send it back to conference means simply this: It is a vote to send the bill to the graveyard.

We might just as well draw the issue plainly and make it certain right here. Let there be no hiding behind good intentions. Let there be no pious declarations of being for the noble objectives of the bill, but we are going to send it to conference, where we know it will die.

Mr. CHAVEZ. Mr. President, will my colleague yield?

Mr. HATCH. I yield.

Mr. CHAVEZ. Without any intention of being pious about the matter, my colleague knows that on the 13th of April, when the bill was passed, I was not on the floor of the Senate. I am not afraid to take the responsibility of voting as I please today, and not being bound by action the Senate took at a time when I was not here.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. HATCH. I yield.

Mr. CLARK of Missouri. I should like to ask the Senator from New Mexico if there is any substantial difference between the bill as it passed the Senate of the United States without opposition, without a dissenting voice in this body, and the bill with the amendments as it passed the House of Representatives on yesterday, overruling the House Committee on the Judiciary.

Mr. HATCH. Yes, Mr. President; I must answer in the affirmative the question of the most distinguished and able Senator from Missouri. In answering the question in the affirmative I want to point out just what the differences are.

After the bill had passed the Senate a great many unwarranted, unfair, unjust, and unreasonable criticisms were made. It was said that the Senate bill would prevent a Member of Congress from making a speech in his own behalf—a most ridiculous construction. It was said that no Jackson Day dinners could be held, and a great many things of that sort. So, as I told the Senator from Pennsylvania [Mr. GUFFEY] I was willing to do, I met with the House committee and agreed on language which would remove any doubt as to what the bill meant, and would make it perfectly clear and certain.

For instance, in order that the legislative branch of government might not be inflicted with this ban, the new section which the House adopted applies only to the executive branch of government. In that respect, if the criticisms were anywhere just or well founded, the bill as it passed the House is not so strong as when it passed the Senate. To make it more clear and certain it was provided, inasmuch as the bill now relates specifically to the executive branch of the Government, that the President and the Vice President should not be affected by its terms, and that members of the President's Cabinet should not be affected; and there is a very sound reason for that. As I have often said, when policy-making officials of the Government such as the President and members of the Cabinet inaugurate and carry on great policies of government, they must necessarily frequently go before the country and the people and explain their poliices, and often it is true that they must defend them when they are assailed. It is but right and proper that they should have the full privilege of doing so, and the bill now so provides.

It is also provided that persons paid from the appropriation for the Executive Office, the staff of that office, are not affected by the bill, which should be the case.

Finally, in order to make certain that I had kept faith with the Senator from Pennsylvania and carried out the word that I pledged to him about policy-making officials, I inserted another provision which is, in substance, that the prohibition shall not extend to any official of the United States appointed by the President by and with the advice and consent of the Senate, and—mark the conjunction "and"—who determines policies to be pursued by the Government in the Nation-wide administration of laws or in the relations of this country with foreign countries; a provision designed to make it certain that no policy-making official is included within the prohibitions of the bill.

What more I could do I do not know, Mr. President. We have met the will of the Senate of the United States, as the legislation was enacted here. If anything, the House has made it better legislation, in that specific persons are excepted. The Senate of the United States today may concur in the action of the House if it wants legislation of that kind, if it was sincere and honest and meant what it said when it passed the bill. The action of the House may be concurred in, and the bill may go to the Executive for his approval or veto. Or, if the Senate shall say, "We did not mean what we said," then let the bill go to conference, and permit it to die. But, Mr. President, I much prefer that if Senators do not believe in this philosophy they stand on the floor of the Senate of the United States and say forthrightly, "I do

not believe in it; it is wrong, it is bad, it is vicious legislation; it ought to be killed, and I am voting to kill it." If it is to die, let it die an honorable death.

Mr. CLARK of Missouri. Mr. President, will the Senator further yield?

Mr. HATCH. I yield.

Mr. CLARK of Missouri. Let me ask the Senator from New Mexico if it is not an absolute fact that so far as the entire spirit and structure of the two bills are concerned the bill as it passed the Senate and the bill as it passed the House last night are in entire conformity?

Mr. HATCH. There is no difference at all.

Mr. CLARK of Missouri. As opposed to the effort which has been made in both bodies—not very strongly in this body, but very strongly by a committee in the body at the other end of the Capitol—to emasculate the whole measure. In other words, the bill as it passed the Senate and the bill as it passed the House are bills with teeth in them to prevent the use of Federal patronage for political purposes in this country.

Now let me ask the Senator from New Mexico a further question, if I may. Does not the Senator believe that to send the bill to conference over a quibble concerning something which does not exist, without any real difference between the will of the two Houses as expressed in the legislation, is to kill the bill?

Mr. HATCH. Oh, certainly. I have no doubt of it.

Mr. MINTON obtained the floor.

Mr. CHAVEZ. Mr. President, will the Senator from Indiana yield to me for just a moment?

Mr. MINTON. I yield.

Mr. CHAVEZ. My purpose in rising a little while ago to ask a question of my colleague was not with the idea of disagreeing with his philosophy. It was with the idea of keeping the record straight, and stating that I, for one, was not on the floor of the Senate at the time the bill was acted on, and that I, for one, am not afraid to state my position on the floor of the Senate. If I had been here at that particular time, I would have voted against the bill. There is no question whatever about that position of mine. The other position is that if the Senate has acted on the bill, this Senator is willing to abide by whatever the Senate did.

Mr. MINTON. Mr. President, the Senator from New Mexico [Mr. HATCH], with a great deal of heat and very little light, has taken up the bill known as Senate bill 1871 and the amendments of the House to it. He has made a number of gratuitous accusations that have no foundation at all in fact.

I suppose I have no better friend in the United States Senate than the Senator from New Mexico [Mr. HATCH]. I would not question his sincerity. I would not question his integrity. I would not accuse the Senator of wanting to do anything against me in any matter that came before the United States Senate. I would not accuse the Senator from New Mexico of wanting to take advantage of his colleagues. I would not be guilty of accusing the Senator from New Mexico of the things he accused his colleagues of a while ago.

Mr. President, I have just looked over for the first time this bill as it came from the House. I venture to say there are not six Senators on the floor of the United States Senate who have seen the bill as amended in the House. It came before the Senate of the United States in due course upon the calendar—everybody knows what that means—and it received not a moment's consideration on the floor of the United States Senate. It went through, as we all know bills sometimes do go through, unnoticed and unheeded. Nobody said a word about it. The bill was not debated. It was not considered at all by the Senate.

It went over to the House; and they had a very heated session on the bill, according to the newspapers. I do not know about that personally; I was not there; but from what I read in the newspapers they put teeth in the bill in the House. I understood that the Senator from New Mexico had all of its teeth in over here, and that he was well satisfied with the bill; but I understand from the Senator from New Mexico and the Senator from Missouri that the teeth were put in over in the House.

Mr. CLARK of Missouri. Mr. President, if the Senator will yield, so far as the teeth in the bill are concerned, they were in the bill when it passed the Senate, and they were taken out by the House committee but were put back by a majority of 100 in the House of Representatives last night. What we are trying to do is to pass a bill with teeth in it, as teeth were in the bill when it passed the Senate and when it passed the House, not running any further risk of a committee taking them out.

Mr. MINTON. I had not had a chance to examine the teeth of the bill when the Senator from Missouri made his statement, but he did say that the House put teeth in the bill.

Mr. CLARK of Missouri. Put them back. [Laughter.]

Mr. MINTON. Whether it put them back or put them in originally makes no difference, so far as I am concerned, because I had not had a chance to tell whether they put them in originally or put them back.

I have just had a chance to look at the bill and the amendments which are attached to it. I myself do not know whether or not this is the same bill the Senate sent over to the House. It was a little difficult here, while trying to listen to the heated discussion of the Senator from New Mexico, to read the bill and understand what happened to it in the House. As I have said, the news came to me only through the newspapers, but the newspapers have reported to us that the House made important changes in the bill—that they put additional provisions into it. None of us had ever had a chance to check on that statement, none of us had even had a chance to look at either bill; and the Senator from New Mexico rises here in his place and takes a bill which never received a moment's consideration on the floor of the Senate, but was sent to the House of Representatives, where they held a heated session yesterday, and were reported to have put teeth into the bill, and he asks us to take it without even looking at it.

I was just objecting to the attempt of the Senator from New Mexico to compel me to take this bill without, at least, looking at its teeth. I will say to the Senator from New Mexico that I have looked at the bill briefly, and very sketchily, and, so far as I can make out, as in a good many other cases, the reports in the newspapers are very much exaggerted. I do not find much change in the bill as it was amended by the House from the form in which it passed the Senate. It comes back to the Senate with its teeth back in it. I think if it were an original proposition some of us would like to be heard again on the bill, but this baby has grown up now, it has lots of teeth in it, it is a full-grown, lusty chap, and its father has defended it valiantly.

As I have said, from a hasty examination of the bill, I wish to say to the Senator from New Mexico that I do not see much difference between the bill which comes back from the House and the one that went to the House. All the denunciation of the Senator from New Mexico of me because I wanted to take a look at the bill, and of some of my friends who wanted time to consider it, is beside the point. I wanted the bill to go to conference in order that we might consider whether or not the bill had been materially changed in the House, as the newspapers had reported it had been.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. MINTON. I yield.

Mr. CLARK of Missouri. Does the Senator consider that the Senate would have a greater opportunity to consider this matter as a result of a conference report being brought in, which, when it came in, would have to be voted up or down without amendment or without change, than on the motion of the Senator from New Mexico to concur in the House amendments, which motion is open to debate, and is itself subject to amendment? In other words, if we railroad this bill to conference, any conference report that comes in must be voted up or down without change; there will be no opportunity for the Senate to consider amendments which have been put in the conference report or put into the bill in the House. On the motion of the Senator from New Mexico

to concur in the House amendments, the Senate has the fullest opportunity it will ever have at any parliamentary stage of the proceedings to consider the entire subject, to consider the House amendments, and either to vote to concur, to reject, or to concur with amendments.

Mr. MINTON. Mr. President, I think that if the bill went to conference, the conference committee would probably have five Senators on it, and that would mean more Senators considering it than have ever previously considered it. So I believe the Senate would have a little time and a little chance, certainly a little more than it has heretofore had, to consider it. At least it would have a chance to look at it and see whether or not it was the Senate bill or the House bill, or whether it was the Senate bill very materially changed by the House. At least we would have that chance. But, of course, the only purpose I had in my desire that it go to conference was that there might be a chance for the first time for at least five Members of the United States Senate to determine whether or not it was the kind of a bill we sent over to the House a short time ago.

I say to the Senator from Missouri, therefore, that it would have gotten a little more consideration from Senators than it had received up to that time, because, as I have stated, at least five of them would have had an opportunity to look at it.

Mr. President, after examining the bill and the amendments I see no material change from the measure we sent to the House. As I have stated, if this matter were starting anew, some of us might like to have a good deal to say about it, but in the present condition of the record I think the bill is in as good shape as it comes back to us as when it went to the House—perhaps in better shape. That I observed from a hasty examination of the bill, under the denunication of the Senator from New Mexico, because I wanted to take a look at it.

Mr. President, there is only one change which seems to be material, and far be it from me to raise that question. I think it was debated in the House yesterday. It is a constitutional question, and I shall not detain the Senate a second in attempting to discuss it, but I merely call attention to the fact that they have added to the word "election" the words "or nomination," which simply gives the Congress of the United States something to say about the method under which candidates shall be nominated, and the Supreme Court of the United States has stated that we have not anything to do with nominations. So far as I am concerned, therefore, the Senator from New Mexico may be at ease. I have no dagger up my sleeve for his beloved bill. I have no intention to knife my friend in the back. I want him to have his bill; his heart is set upon it, and I am for him. I do not think the House did anything to him and I do not think it did anything to the Senate. So far as I am concerned, the Senator may have his bill, and God bless him.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from New Mexico that the Senate concur in the amendments of the House.

The motion was agreed to.

DISCRIMINATION AGAINST GRADUATES OF CERTAIN SCHOOLS

Mr. SHEPPARD. Mr. President, I renew my motion that the Senate proceed to the consideration of Senate bill 1610, to prevent discrimination against graduates of certain schools.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1610) to prevent discrimination against graduates of certain schools, and those acquiring their legal education in law offices, in the making of appointments to Government positions the qualifications for which include legal training or legal experience, which was read, as follows:

*Be it enacted, etc.*, That in appointing, or fixing requirements with respect to the appointment of, persons to any position in the Government service, if the qualifications required of applicants for such position include legal training or legal experience, no officer or employee of any executive department, independent establishment, or agency (including Government-owned Government-controlled corporations) of the United States shall discriminate against any applicant, or deny to any applicant the privilege of taking any competitive examination held for the purpose of determining the qualifications of applicants for such position, because such applicant (1) has not been graduated from a particular law school; (2) has not been graduated from a law school which is of a particular class or which has been approved or accredited by any association, organization, or group; or (3) has not had college training in addition to law-school training, or who acquired his legal education in a law office.

SEC. 2. No sums appropriated or allocated for the payment of salaries and expense accounts of officers and employees of the executive departments, independent establishments, and agencies of the United States shall be available to pay the salary or expense account of any such officer or employee who violates the first section of this act.

Mr. SHEPPARD. Mr. President, my views on this measure were set forth fully in the Senate recently, and as far as I am concerned I am ready for a vote. I think the measure is clearly understood. It is my information that the Senator from Rhode Island [Mr. GREEN] desires to enlarge upon his views of a few days ago.

Mr. GREEN. Mr. President, in the first place, let me state again that I am in sympathy with what I understand to be the occasion for the introduction of this bill. If any department in the United States Government has limited the selection of its legal advisers to the graduates of one, two, or three law schools, the head of that department is open to just condemnation for the unfair use of the discretion placed in him. However, such an abuse of discretion does not justify the Congress in passing a bill such as S. 1610.

The bill is entitled

A bill to prevent discrimination * * *.

It is, however, really a bill to require discrimination. The bill in effect prevents any department from setting up qualifications for its personnel on the basis of education and training. This is bad in principle. The bill provides that in appointing persons to positions which call for legal training or legal experience, the applicant may not be required to have been graduated from a particular law school. This provision is all right and would meet the evil which is sought to be corrected. But the bill goes further and provides that the applicant may not be required to have been graduated from a law school of a certain kind. This is not all right. There are good law schools and bad law schools, law schools which give a student proper training, and law schools which do not properly train a student.

The wording in the bill is undoubtedly aimed at the list of law schools approved by the American Bar Association. There are now 102 law schools so approved by it, a decided majority of the law schools in the United States. These law schools are not only examined by competent examiners before they are approved, they are from time to time examined afterward to see that they keep up the standards.

These standards are not arbitrary. They are quite definite. They require that a regular student must have a minimum of general education, defined as 2 years of college work, though a limited number of special students may also be admitted. The school must have at least one full-time teacher for each 100 students or fraction thereof, and at least three such teachers. There are minimum requirements for the library. The course for the degree must be not less than 3 years for full-time students and not less than 4 years for part-time students; that is, those students who have outside employment and so can attend classes only in the late afternoon or evening. Provision is made for students, who because of lack of funds, must work their way through law schools.

These standards are set both in the interest of the students themselves, so that they may be adequately prepared for the exacting profession they have chosen, and also in the interest of the general public so that those who go to a lawyer admitted to the bar may do so in confidence that he has had adequate preparation. It is as wrong to let a man hold himself out as a lawyer who has not had adequate training, as it is for a man to hold himself out as a doctor who has not had adequate training. In the one case, he may wreck a man's life by giving wrong advice which may result in the loss of his liberty or fortune. In the other, he may wreck a man's life by giving wrong advice as to how to treat some physical ailment. The approval of certain schools is, therefore, a help to prospective students and to the pub-

lic. It gives public notice that these schools have the necessary educational facilities and apply the necessary standards in amount and quality of work to give their students adequate legal training.

Objection has been made to the requirement that 2 years of general college education shall be a prerequisite, but it has been found that at least this amount of general education is necessary to enable a student to profit by a strictly technical legal education. There are now 41 States, including Maryland, which has just acted, which either now or in the near future require for admission to the bar these 2 years of college education in addition to the legal education. These 41 States include the most populous States, where the need for trained lawyers has been most felt and appreciated. Here in the District of Columbia, both the District Bar Association and the Federal Bar Association have gone on record in favor of this step, and in the District both the court of appeals and the district court have gone on record as in favor of this step at a future fixed time.

These standards of the American Bar Association were adopted in 1921 and were later approved by a convention of State and local bar associations. They have had the fullest discussion of their merits and have been given wide publicity. The movement for higher standards in legal education has been going forward fast during the last 10 years and has behind it the support of the leaders of the bench and bar. These standards have been set as a result of long experience, because it has been found that very few men can do the work of a lawyer nowadays without this long-directed application to legal study. Of course, in former days law students did not have such opportunity for study, nor were the requirements of the profession so exacting. Of course, too, no rules of the sort are applicable to a genius, who may surmount every obstacle and without special training surpass the best-prepared student.

It has also been found that examinations alone do not take the place of prolonged study. A man may cram for an examination and make a good showing, and not long afterward sink back to the state of legal unpreparedness he was in before his cramming. At any rate, 41 States have concluded that examinations are not alone sufficient and that previous preparation of a required amount and kind is necessary.

The pending bill, however, prohibits the requirement of any such adequate preparation as has been fixed either by the American Bar Association, or by the Association of American Law Schools, or by these 41 States. Why should departments of the Federal Government, who need the best-trained lawyers in the defense of the rights of the Nation and its citizens, have lower standards than the great majority of the States of the Union? We might justify a bill which fixed minimum requirements. It is hard to justify a bill which provides maximum requirements and penalizes public officials who require more than this low maximum.

It must be remembered that this bill does not apply to the District of Columbia alone. It applies to all executive departments of the Federal Government, and to all its independent establishments, and even to Government-owned and Government-controlled corporations, wherever they may be. Yet if a State has a high standard for admission to the bar, and a Government department there fixes the same standard for admission to its legal department, under the provisions of the bill the officer or any employee of that department helping it to establish that standard would forfeit his salary and expense account.

Even if some position required the highest degree of legal training, the Department cannot require that he has graduated from a law school of any particular class, or a law school approved by the supreme court of the State in which the Department is situated. It cannot even require that he shall have had any college training or shall have been to a law school at all. This is certainly a bill fixing too low requirements for the Federal service. What we need is high requirements, not low requirements.

The bad effects of the bill go still further. Let us suppose that, of two applicants who passed equally good examinations, one has been to college and the other has not, one has been to a law school and the other has not; if a Federal official should select the man who had had a college education and a law-school training in addition to the training his rival had, the Federal official would probably be accused of breaking the law and discriminating against the less well prepared applicant. But we all know that on the average and in the long run the student with the longer and better preparation would probably render better service.

Think, too, how difficult it would be to enforce such a law. The Department head might say that in making the appointment he had done it for other reasons than those enumerated in the bill, and there might well be other reasons which affected his selection. Yet this could well be the basis of an accusation that he had broken the law. Sometimes an official who had intentionally evaded the law would go unpunished. Sometimes an official who had not been conscious of evading the law would be punished by the loss of his salary and expense account. The only way in which a Federal official selecting legal help could avoid the chance of being accused of violating the law would be for him to select as his legal assistants the lowest grade of law students—those who had never been to college or attended a law school. Then, and then only, would he be safe.

One of the reasons why it is difficult for Federal laws to be enforced is that the salaries paid by the Government are low in comparison with the payment for similar services by those who have broken the law. It is difficult enough at present for the Federal Government to obtain the best law students. Why should we pass a bill which would make it still more difficult? The Federal Government is now at a disadvantage in its fight against lawbreakers. Why should we make it still harder for the Federal Government? It is wrong to think of the Government as an instrumentality contending against citizens to deprive them of their rights. The Government is the organized citizenry fighting against an individual lawbreaking citizen to maintain the rights of all citizens. Government officials need the best legal help they can obtain. We should not have a lower standard than that set for admission to the bar in the great majority of the States of the Union. The bill would set a lower standard.

Democracy needs to be efficient. The bill would promote inefficiency. Inefficiency in the administration of the law means that the masses of the citizens are not protected in their legal rights. In our American democracy we promise them that they will be so protected. The bill would weaken and break down that protection.

Mr. SHEPPARD. I feel that I need but to read the regulation of one Department on this subject to convince the Senate that the bill ought to pass. This is the regulation:

> In order to be eligible for appointment as an attorney the applicant must be a graduate of a school accredited by the Association of American Law Schools or approved by the American Bar Association, and he must be a member of the bar.

Of course, there is no quarrel with the last qualification; but with reference to the other requirement, let me say that applicants may have qualified themselves through home study or other forms of study outside the schools mentioned, not having the funds to attend a college. They may have passed a bar examination and may have shown, through actual practice, that they are competent and successful lawyers; and yet under this rule they would be barred from an appointment by this Department.

The bill does not establish a lower standard than that of a majority of the States. A majority of the States require for admission to a bar examination prelegal college education or training or the equivalent thereof. Who will say that study at home by certain types of earnest, capable, ambitious, and determined men and women would not be the equivalent, or in some instances more than the equivalent, of college education or college training? This bill carries out the principles I have announced.

Mr. ANDREWS. Mr. President, will the Senator yield?

Mr. SHEPPARD. I yield to the Senator from Florida.

Mr. ANDREWS. I should like to ask the distinguished Senator, if the present regulations had been in effect all during the history of the United States, whether or not Patrick Henry, Abraham Lincoln, or John Marshall could have qualified to hold a position under the United States?

Mr. SHEPPARD. They could never have qualified under regulations such as I have quoted, and they were among the best lawyers in the history of the country.

Mr. President, I ask for a vote.

Mr. MINTON. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Indiana will be stated.

The CHIEF CLERK. On page 2, line 9, after the word "office", it is proposed to strike out the period and insert a semicolon and the following: "or (4) is a member of any particular racial or religious group or organization."

Mr. SHEPPARD. Mr. President, I have no objection to that amendment.

The amendment was agreed to.

Mr. BRIDGES. Mr. President, I should like to inquire of the Senator who is sponsoring the bill, if his bill is passed with the amendments which have been submitted, just what the minimum requirements would be in the District of Columbia. Can he tell us in a word?

Mr. SHEPPARD. Requirements for admission to the bar of the District of Columbia do not call as yet for any prelegal college training.

Mr. BRIDGES. Must he be a member of the bar of the District of Columbia?

Mr. SHEPPARD. That is not a requirement for legal places in the Government service.

Mr. BRIDGES. Assume, for the moment, that there is an opening in the Department of Agriculture for an attorney, and that there is a nonpolitical appointment of an applicant from Indiana. Provided the applicant is a member of the bar of Indiana, is that all that would be necessary?

Mr. SHEPPARD. If he has the necessary ability as a lawyer, all that would be necessary, I take it, would be the fact that he had passed a bar examination.

Mr. BRIDGES. In his home State?

Mr. SHEPPARD. In any State.

Mr. GREEN. Mr. President, will the Senator yield?

Mr. SHEPPARD. I yield.

Mr. GREEN. Is it not true that in Indiana, Maine, New Hampshire, Vermont, or any other State under the terms of the bill, a lawyer could be appointed who had less training than is required for a member of the bar in the State?

Mr. SHEPPARD. Please restate the question.

Mr. GREEN. The bill so states.

Mr. SHEPPARD. No; the Senator is mistaken.

Mr. GREEN. The bill sets up certain maximum requirements, and those maximum requirements are not as high as the minimum requirements for admission to the bar in 41 States of the Union.

Mr. SHEPPARD. I differ with the Senator. In only 14 States is a prelegal college training required, without qualification. Most of the other States require formal prelegal college training or its equivalent.

Mr. GREEN. The requirements of the bill are lower than those of the States.

Mr. SHEPPARD. The bill provides that the candidate shall not be discriminated against because he has not had a particular form of training.

Mr. GREEN. Instead of providing minimum requirements, the bill provides maximum requirements.

Mr. SHEPPARD. It provides that the appointing power shall be satisfied as to the ability of the applicant to perform the work, and that the applicant shall not be discriminated against because he is not a graduate of a particular law school or particular group of law schools or has not had a formal prelegal education.

The PRESIDING OFFICER. The bill is still before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1610) was ordered to be engrossed for a third reading, read the third time, and passed.

### ADDITIONAL DISTRICT AND CIRCUIT JUDGES

Mr. ASHURST. Mr. President, in accordance with a statement I made a couple of hours ago, I now move that the Senate proceed to the consideration of Senate bill 2185, to provide for the appointment of additional district and circuit judges. If my motion shall prevail I do not expect to discuss the bill this afternoon. I do not expect action on the bill today or tomorrow, but shall ask the Senate to consider the bill next Monday. So far as I have the right to do so, I agree that the bill may be laid aside at any time to consider the lending-spending bill, or the motion of the Senator from Oklahoma [Mr. THOMAS] to reconsider the vote by which the truth-in-fabric bill was passed.

Mr. KING. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. KING. With the understanding implied in the statement of the Senator, I have no objection. Is it understood that the Senate may proceed to the consideration of the bill, and that it may be laid aside until next Monday?

Mr. ASHURST. Yes, Mr. President.

Mr. KING. I am compelled to leave the Chamber by reason of a committee meeting.

Mr. ASHURST. I ask the attention of the Senator from Vermont [Mr. AUSTIN]. I do not expect to discuss the bill this afternoon, or to refer to it. I merely wish to have it made the unfinished business.

Mr. AUSTIN. Mr. President, will the Senator consent to my putting in the RECORD, for the benefit of study over the week end, certain tables and statistics which I have prepared, which will be helpful in considering the bill when it comes up?

Mr. ASHURST. Mr. President, I think that is a valuable consideration; and, if my motion is agreed to, I hope the Senator from Vermont will do as he suggests.

Mr. KING. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. KING. I shall be very happy if the Senator from Vermont will also have placed in the RECORD—and if he does not, I shall be happy to offer it for the RECORD—a very illuminating article written by Judge Otis, of Kansas City.

Mr. AUSTIN. I shall be glad to place it in the RECORD, because it fits in with the logic of my tables.

Mr. KING. Judge Otis has made a study of the question of judicial needs; and I shall be very happy to have his table put in the RECORD, because it will prove very helpful to Senators who desire the facts with regard to the necessity or lack of necessity of any increase in the number of judges.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arizona to proceed to the consideration of Senate bill 2185.

The motion was agreed to; and the Senate proceeded to the consideration of the bill (S. 2185) to provide for the appointment of additional district and circuit judges, which had been reported from the Commitee on the Judiciary with amendments.

Mr. ASHURST. Mr. President, before we proceed to another matter, emulating the good example, I think it is, of the Senator from Vermont [Mr. AUSTIN], I ask to have printed at this point in my remarks a letter from the Attorney General of the United States setting forth the need for the additional judges who are provided for in this bill.

The PRESIDING OFFICER. Without objection, the letter will be printed in the RECORD.

The letter referred to is as follows:

APPOINTMENT OF ADDITIONAL DISTRICT AND CIRCUIT JUDGES

DEPARTMENT OF JUSTICE,
*Washington, D. C., July 6, 1939.*

HON. HENRY F. ASHURST,
*Chairman, Committee on the Judiciary,*
*United States Senate, Washington, D. C.*

MY DEAR SENATOR: This refers to the bill (S. 2185) to provide for the appointment of additional district and circuit judges.

I trust that the bill will become law at this session of the Congress, as the additional judicial positions proposed by the bill as reported by the Committee on the Judiciary, are greatly needed in order to assist in bringing the dockets of the Federal courts to a current condition.

Detailed data in support of each of the provisions contained in the bill are found in the printed hearings relating to this legislation. I desire, however, to call attention to some of the more salient and outstanding considerations indicating the necessity for each of the proposed additional judicial positions.

SIXTH CIRCUIT

The bill proposes to authorize the appointment of an additional circuit judge for the Sixth Circuit.

This course was recommended by the judicial conference in September 1938. Its report contains the following observation on this subject:

"The Circuit Court of Appeals for the Sixth Circuit has a large accumulation of cases and it is apparent that in order to secure the prompt disposition of its work an additional judge will be needed even after the existing vacancy is filled."

EIGHTH CIRCUIT

The bill proposes to authorize the appointment of one additional circuit judge for the eighth circuit. This is a very modest proposal, as the judicial conference in September 1938 urged the creation of two additional judicial positions for the eighth circuit. The report of the conference contains the following statement regarding this matter:

"The Circuit Court of Appeals for the Eighth Circuit has been able to keep abreast of its work only through the aid of retired judges. It now appears that dependence cannot be placed upon their continued ability to render this service and provision should be made for two additional circuit judges there."

SOUTHERN DISTRICT OF CALIFORNIA

The bill proposes to authorize the appointment of an additional district judge for the southern district of California. This action was recommended by the judicial conference in September 1938. It is observed in the report of the conference that further judicial assistance is needed in that district in view of the heavy dockets. Studies made in this Department indicate that the dockets in this district are considerably behind, and that new business is coming in at such a rate that no inroad is made into the arrears.

DISTRICT OF NEW JERSEY

The judicial conference of 1938 recommended that provisions be made for an additional district judge for the district of New Jersey. The volume of new business has been considerably increasing in this district, as is strikingly indicated by the fact that while during the fiscal year ending June 30, 1937, the number of civil actions filed was 768 and the number of criminal proceedings instituted was 336, during the following year the numbers rose to 900 and 439, respectively.

WESTERN DISTRICT OF OKLAHOMA

The Judicial Conference of 1938 recommended that provision be made for the appointment of an additional district judge for the western district of Oklahoma. This district has a very heavy load of cases as compared with the average case load per judge throughout the country and the new business has been growing from year to year.

EASTERN DISTRICT OF PENNSYLVANIA

The Judicial Conference of 1938 recommended the creation of an additional judicial position in the eastern district of Pennsylvania. This district, which is composed of 10 counties and includes the city of Philadelphia, has a very large volume of business. The trial dockets are considerably in arrears, and the new business has been increasing from year to year. During the year ending June 30, 1938, the number of new cases filed was 33⅓ percent larger than the number for the preceding year.

SOUTHERN DISTRICT OF NEW YORK

The judicial conference of 1938 recommended the creation of an additional judicial position in the southern district of New York. The following observations on this point are contained in its report:

"In the southern district of New York there has been reliance upon the assistance furnished through the assignment of judges from other circuits, but inquiry shows that it is impracticable to obtain this relief to the extent needed."

There are 11 judges in this district. The appointment of a twelfth judge was authorized by section 4, paragraph (d), of the act of May 31, 1938, which also contained a provision that the first vacancy occurring in any of the other 11 positions should not be filled. Recently one of the district judges—Judge Patterson—was elevated to the circuit court of appeals, and legislation is needed to permit this vacancy to be filled.

There is a marked increase in the number of new cases instituted and the dockets are considerably in arrears, so that some relief is indispensable.

FLORIDA

The bill proposes to authorize the appointment of an additional judge who shall be a district judge for the northern and southern districts of Florida. The volume of business in the southern district has been on the increase, and additional help is needed to maintain it in a current condition.

Sincerely,

FRANK MURPHY,
*Attorney General.*

Mr. AUSTIN. Mr. President, it will be in regular order in the RECORD if I may insert at this point, before some other business shall intervene, some matters in connection with Senate bill 2185. In the first place, let me say that there is pending also House bill 5906, which apparently is related in a certain measure to the Senate bill. I should like first to have it printed in the RECORD.

There being no objection, House bill 5906 was ordered to be printed in the RECORD, as follows:

*Be it enacted, etc.*, That the provision of subsection (d) of section 4 of the act entitled "An act to provide for the appointment of additional judges for certain United States district courts, circuit courts of appeals, and certain courts of the United States for the District of Columbia," approved May 31, 1938 (52 Stat. 585; U. S. C., title 28, sec. 4j–1), which reads: "*Provided*, That the first vacancy occurring in the office of district judge for the southern district of New York by the retirement, disqualification, resignation, or death of judges in office on the date of enactment of this act shall not be filled," be, and it is hereby, repealed.

Mr. AUSTIN. Second, I ask unanimous consent to have printed in the RECORD an article by Judge Merrill E. Otis entitled "The Business of United States District Courts," principally to show what a striking decline in the judicial business throughout the United States has occurred since 1933 and now exists.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the University of Kansas City Law Review for June 1939]

THE BUSINESS OF UNITED STATES DISTRICT COURTS

(By Merrill E. Otis)[1]

The purpose of this study is to discover whether the business of the United States district courts is affected by extratribunal forces, legal or economic; whether it bears any relation to population, to congestion of population, to aggregation of wealth; whether it is possible to devise a measuring stick by which the judicial manpower required in any given district may be determined. The study is based on statistics appearing in the Attorney General's reports during a 10-year period (1929–38).[2] The facts set out in the reports were furnished the Attorneys General by the clerks of the several district courts.

The business of the district courts is criminal and civil. The civil business may be divided into two great classes: (1) That to which the United States is a party, either plaintiff or defendant; and (2) that between private litigants. There is indeed a third class of business (cases in bankruptcy), but cases in that class come to the judges only on petitions to review orders of referees in bankruptcy. The orders reviewed are relatively few, require little time, are not separately enumerated in the reports of the Attorney General, and, except for a single reference, are disregarded in this study.

We begin the study by setting out in tables the numbers of cases filed in all of the district courts of the United States in each class of cases in each of the 10 years considered. We have—

TABLE I.—*Criminal cases*

| | |
|---|---|
| 1929 | 86,348 |
| 1930 | 87,305 |
| 1931 | 83,747 |
| 1932 | 92,174 |
| 1933 | 82,675 |
| 1934 | 34,152 |
| 1935 | 35,365 |
| 1936 | 35,920 |
| 1937 | 35,475 |
| 1938 | 34,202 |

TABLE II.—*Civil cases (United States a party)*

| | |
|---|---|
| 1929 | 24,307 |
| 1930 | 24,934 |
| 1931 | 25,332 |
| 1932 | 34,189 |
| 1933 | 25,797 |
| 1934 | 9,487 |
| 1935 | 11,679 |
| 1936 | 13,051 |
| 1937 | 10,202 |
| 1938 | 11,526 |

TABLE III.—*Civil cases (private)*

| | |
|---|---|
| 1929 | 20,980 |
| 1930 | 23,371 |
| 1931 | 24,000 |
| 1932 | 26,326 |
| 1933 | 26,656 |
| 1934 | 26,372 |
| 1935 | 23,302 |
| 1936 | 26,334 |
| 1937 | 22,697 |
| 1938 | 22,065 |

A clearer comprehension of the statistics presented by the tables will be had if they are graphically exhibited on a chart.

EFFECT OF TWENTY-FIRST AMENDMENT

From this chart appear three striking facts: 1. The criminal business of the courts in the second half of the 10-year period was conspicuously less than the criminal business in the first half of that period. The average number of cases per year in the

[1] A. B., A. M., LL. B., LL. D.; United States district judge, western district of Missouri; member of council, section of judicial administration, American Bar Association.

[2] The period begins July 1, 1928, and ends June 30, 1938.

first half of the period was 86,447, in the second half, 35,023. The drop was precipitous. 2. The civil business to which the United States was a party in the second half of the period was much less than in the first half. The average number of cases per year in the first half of the period was 26,892, in the second half, 11,190. Again the drop was precipitous. 3. The line on the chart representing civil business involving only private litigants runs almost level through the 10-year period. The average during the first half of the period was 24,266, during the second half, 24,155. The line rises or falls only slightly from year to year.

The explanation of the decided drop after 1933 in the criminal and United States civil business is simple. It was the direct result of the twenty-first amendment to the Constitution and the repeal of the National Prohibition Act. Of the 82,675 criminal cases commenced in 1933, 57,553 were brought under that act. Of the 25,797 civil cases to which the United States was a party commenced in 1933, 11,478 were brought under that act.

LESSENING BUSINESS IN UNITED STATES COURTS

While the total number of cases of all kinds commenced in the United States courts during the first half of the period was 708,041, and during the second half 351,830, a decrease of 50 percent, considering numbers only, a conclusion that the business of the Federal trial courts had decreased by one-half since 1933 would be quite erroneous. The time required of the judge for the disposition of the average case between private litigants is at least 10 times as great as the time required for the disposition of the average criminal case or civil case to which the United States is a party.[3] Reducing criminal cases and civil cases to which the United States is a party, in both the first and second halves of the 10-year period, to terms of cases between private litigants, we have commenced in the first half of the period 178,002 cases, commenced in the second half 143,876 cases. The business of the courts in the second half roughly may be said to be 81 percent of the business in the first half.

The real work of the average district judge is caused by private litigation. While it appears from chart I that changes in statute law may affect public litigation greatly, the line representing private litigation does not rise or fall greatly from any cause. It does rise somewhat, gradually, from 1929 to 1932, continues on almost an exact level to 1934, gradually falling then, save for a rise in 1 year, to the end of the 10-year period. Undoubtedly the gradual rise referred to is attributable to the economic depression. It is reasonable to assume that men's growing financial needs on the one hand and their growing inability to pay money on the other affect their resort to litigation. But the effect upon litigation, while noticeable, is slight.

POPULATION AND LITIGATION

The relation between the population of a district and the private litigation likely to be commenced in that district is demonstrable. For the purpose of that demonstration the 84 districts are arranged here in 9 groups. In group 1 are the 10 districts having, by the census of 1930, the smallest population. In group 2 the 10 districts next larger in population. There are 4 districts only in group 9. The population and the average number of cases between private litigants filed in each group of districts in each year of the 10-year period is set out. We have—

TABLE IV

| | |
|---|---|
| Group 1—3,469,541 | 534.7 |
| Group 2—6,153,893 | 857.3 |
| Group 3—8,531,214 | 863.3 |
| Group 4—10,265,005 | 1,713.8 |
| Group 5—11,849,316 | 2,116 |
| Group 6—13,373,887 | 1,740.1 |
| Group 7—18,362,210 | 2,601.9 |
| Group 8—32,108,178 | 4,466.1 |
| Group 9—12,657,155 | 4,316.7 |

It will be observed that, with one exception, each of these nine groups has a greater or lesser number of cases than another group, as its population is greater or lesser. The exception is group 5, which has more than its proportionate share of cases. But that variance is due to a single district, the southern district of Florida, which had an average of 710.1 cases per year in the 10-year period, more than seven times the number of cases in any other district of like population. Here again the explanation is simple. The period was one of unprecedented business speculation in that district. Unprecedented litigation resulted. This exceptional instance does not affect the truth of the principle that litigation, generally speaking, varies with population. To a lesser extent it is influenced also by congestion of population and the increase or decrease of business activity.

The relation between the population of a district and the number of court cases between private litigants is apparent and the reason for it obvious. Cases are controversies. Controversies will increase in number as the number of those who might have controversies increases. But the mere number of persons living in a given district is not the only factor which determines the number of cases. Controversies increase as contacts increase. Contacts increase as congestion of population increases. Therefore we should expect to find that the number of cases in a district depends not only on its population but also on its city population. The western district of Missouri, for example, with 538,208 of its people in cities of more than 30,000 inhabitants, has 2.5 times the population of the district of North Dakota, with no city of 30,000, but it has, on an average, 4.8 times the number of private civil cases. The eastern district of Missouri, with 821,960 of its people in a single city, has 2.7 times the population of the district of South Dakota with no city of more than 30,000, but it has an average of 6.7 the number of private civil cases. Generally speaking, the factor of congestion of population has a relation to the volume of litigation in almost every district. So also does aggregate wealth, income, and business activity. The southern district of New York, for example, has a volume of private litigation far in excess of what the factors of population or congestion of population alone would suggest.

THE EASTERN AND WESTERN DISTRICTS OF MISSOURI

It is not to be supposed, of course, that there are not still other factors than those mentioned which affect the volume of litigation in a Federal court. Some of these other factors are difficult of discernment, but certainly exist and produce effects. Consider, for example, the two districts in Missouri, the eastern and western districts. Here are two districts in the same State. The population of the eastern district is greater than the population of the western district (eastern district, 1,861,043; western district, 1,768,324). There is a greater congestion of population in the eastern district than in the western district. In the eastern district 821,960 of its inhabitants live in cities of more than 30,000. In the western district 538,208 of its inhabitants live in cities of more than 30,000. The wealth and income of the eastern district undoubtedly exceed those of the western district. Each of the three factors affecting the volume of litigation which have been discussed here should tend to produce a greater volume of litigation in the eastern district of Missouri than in the western district. The fact is, however, that the litigation in the western district exceeds, year after year, the litigation in the eastern district.

Perhaps the greater litigation which year after year comes into the United States court in the western district of Missouri, in comparison with the eastern district, is due to a difference in the character of the population of the two districts. There is a western, vigorous, breezy, perhaps contentious, spirit in the western district of Missouri and its people, which tends somewhat to foster controversies. The eastern district is inhabited by a more settled, a steadier class of citizenry, including an unusually large proportion of German ancestry, a peace-loving, conservative people.

A MEASURING STICK SUGGESTED

What an aid it would be to the Attorney General, who is called on periodically to recommend for or against an increase of judges, to the Federal Judicial Conference and the Judiciary Committees of the Senate and House, which must make like recommendations, to the Senate and House, which must make decisions on these recommendations, if they could make their recommendations and decisions scientifically. Undoubtedly they desire to act as intelligently as possible, in the light that is given them. They would spurn any effort of any politician to secure the creation of some new judgeship for the mere sake of patronage, although his efforts be buttressed by some specious showing or even by an honest showing of a need obviously transient.[4] Packing a district court with unneeded judges is not only an economic waste; it is degrading and humiliating to every serving judge in the district affected. Responsible statesmen will welcome a measuring stick, if one can be devised, by the application of which to the work to be done in any district it can be determined whether a new judge is needed.

Given a pile of wood growing steadily and at a uniform rate, and knowing, fairly accurately, how much wood one man can saw in a given period, it is not difficult to determine whether two or three men are needed to do the work or whether one is sufficient If that were the problem a measuring stick easily could be devised—the annual wood-sawing capacity of an average man. Is there any way to create a measuring stick for our very similar, if somewhat higher-ranking, problem? There is a way. The measuring stick devised will not be sufficiently accurate to measure thirty-seconds of an inch; it will be sufficiently accurate to measure miles. What has been done by a judge can be done again. And if some single judge, by reason of special capacity, can do more than the average judge, so that his record, considered alone, is not a measure of great value, the average work of several judges will be a useful and valuable measure.

Let us take then the 10 districts having the largest volume of business in the 10-year period portrayed on our charts, let us consider the work terminated in those districts in the peak year of 1933, let us then determine from what was done in those districts in that year what is within average judicial capacity. The 10 districts are: (1) The southern district of New York, (2) the eastern district of New York, (3) the northern district of Illinois, (4) the southern district of Florida, (5) the district of New Jersey, (6) the northern district of Ohio, (7) the eastern district of

[3] The statement is based on the personal observation and experience of the writer as a United States district judge during 14 years and the opinions of other judges given by them to the writer. Nine of 10 criminal cases are disposed of by pleas of guilty or dismissal. Usually several criminal cases can be tried in one court day. Nine or 10 civil cases to which the United States is a party are not contested cases.

[4] Regretfully it must be said that instances of such efforts have been numerous. Even the Conference of Senior Circuit Judges occasionally has been misled to suggest additional judgeships where there was no need. The conference and Congress would do well to consult the district judges on the ground and the organized bar, not for recommendations but for facts. They might hope to get accurate information from such sources.

Michigan, (8) the southern district of California, (9) the northern district of Texas, and (10) the eastern district of Pennsylvania. Forty judges in 1933 terminated in these districts 19,686 criminal cases, 11,089 civil cases to which the United States was a party, 8,893 cases between private litigants. The average work terminated by each of the 40 judges in the 10 districts in 1933 was 492 criminal cases, 227 civil cases to which the United States was a party, 221 civil cases between private litigants.

As a check upon this conclusion the compiler of this study, who himself is and has been for 14 years a United States district judge, of average capacity and industry only, has examined the work of his own district, the western district of Missouri, for the year 1933. It so happens that this district is the eleventh from the top in volume of business. It had two judges in 1933. One of them terminated slightly more than one-half of the cases terminated in that district in 1933. The total number terminated by both judges was: Criminal, 1,148; civil, United States, 496; civil, private, 482. One judge could and easily did dispose of at least 574 criminal cases, 248 United States civil cases, and 241 private civil cases. That is a little more than the average number of cases in each class disposed of by each of the 40 judges in the 10 districts with the greatest volume of business.

Let us now arbitrarily reduce the averages for the 10 heaviest districts as follows: Criminal, from 492 to 400; civil (United States a party), from 227 to 200; civil (private), from 221 to 200. That arbitrary reduction certainly will take care of every possible contingency, such as the temporary incapacity of judges and sporadic increases in work in certain districts.

So here is the measuring stick: 400–200–200.

The reasons justifying this measuring stick have been stated. If a measuring stick more nearly accurate can be devised, it ought to be devised, and its justification set out. To refuse any measuring stick is to confess an unworthy purpose. Certainly those in authority will wish reason and intelligence as guides, rather than that their action shall be influenced by selfish desires for patronage, moving along ancient log-rolling ways.[5]

Mr. AUSTIN. I ask unanimous consent to have printed in the RECORD a letter from Hon. Charles Weiser, clerk of the United States District Court for the Southern District of New York, my purpose being to refer particularly to the original proposals in the pending bill which would have effected an increase of three judges in southern New York, whereas by the bill as now reported to the Senate with amendments the increase is limited to one. The data contained in the letter of the clerk of that court are informative. There is a table connected which I ask also to have printed with the letter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK,
OFFICE OF THE CLERK,
*New York City, June 21, 1939.*

Hon. WARREN R. AUSTIN,
*United States Senator, Washington, D. C.*

DEAR SENATOR AUSTIN: The receipt is acknowledged of your telegram and letter requesting information as to the number of local and visiting judges in this district during the years of 1928 to date.

There is enclosed a table which gives the data called for. It shows the number of judges of this district for each of the years in question, together with the changes due to resignations, deaths, and transfer, also the number of visiting judges in each of those years and the total number of sessions held by the visiting judges. The visiting judges were here for periods usually of from 2 to 4 weeks. The average number of court sessions held per annum by a regularly appointed judge in this district, outside of the time necessarily spent in chambers, approximates 240, so that the sessions held by visiting judges were equivalent of from one and one-half to two full-time judges.

The authorized number of southern district judges was as follows:

1928: Six judges.

1929: Nine judges. Of these three were appointed in May of that year under the act approved February 26, 1929. One of the original six judges, Judge Winslow, resigned in March. The act under which he was originally appointed provided that no successor shall be appointed.

1930: Eight judges. Of these, Judge Thacher resigned in April, and his successor, Judge Patterson, was appointed in May.

1931, 1932, 1933, 1934, 1935: Eight judges. One of these, Judge Coleman, died in March 1934 and his successor, Judge Hulbert, was appointed in June 1934.

1936: Eleven judges. Of these, three were appointed under the act approved June 15, 1936.

1937: Eleven judges.

1938: Twelve judges. Of these, one was appointed under the act approved May 31, 1938.

1939: Twelve judges, of which there is one vacancy due to the transfer of Judge Patterson to the Circuit Court of Appeals in March last. This vacancy has not yet been filled.

It may be of interest to note that Circuit Judge Mack, who was regularly assigned to this district, has been absent because of illness, and is not expected to return to regular duty. Also, that Judge Woolsey was absent for about 3½ months in 1934 because of heart trouble; he has not fully recovered and sits only in equity causes, as he is not yet able to undertake the full regular assignments. Judge Caffey has been sitting in the antitrust suit against the Aluminum Corporation of America et al., for 1 full year past, and expects that the case will consume another year. He has been unable to take any other assignment during this period.

Respectfully,

CHARLES WEISER, *Clerk.*

*United States District Court, Southern District of New York*

| Southern district judges | 1928 | 1929 | 1930 | 1931 | 1932 | 1933 | 1934 | 1935 | 1936 | 1937 | 1938 | 1939, to June 20 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Knox | X | X | X | X | X | X | X | X | X | X | X | X |
| Winslow | X | [1] X | | | | | | | | | | |
| Goddard | X | X | X | X | X | X | X | X | X | X | X | X |
| Bondy | X | X | X | X | X | X | X | X | X | X | X | X |
| Thacher | X | X | [2] X | | | | | | | | | |
| Coleman | X | X | X | X | X | X | [3] X | | | | | |
| Woolsey | | [4] X | X | X | X | X | X | X | X | X | X | X |
| Caffey | | [4] X | X | X | X | X | X | X | X | X | X | X |
| Coxe | | [4] X | X | X | X | X | X | X | X | X | X | X |
| Patterson | | | [4] X | X | X | X | X | X | X | X | X | [5] X |
| Hulbert | | | | | | | [6] X | X | X | X | X | X |
| Leibell | | | | | | | | | [6] X | X | X | X |
| Clancy | | | | | | | | | [6] X | X | X | X |
| Mandelbaum | | | | | | | | | [6] X | X | X | X |
| Conger | | | | | | | | | | | [6] X | X |
| Total: | | | | | | | | | | | | |
| Full time | 6 | 5 | 7 | 8 | 8 | 8 | 7 | 8 | 8 | 11 | 11 | 11 |
| Part of time | | 4 | 2 | | | | 1 | | 3 | | 1 | 1 |
| Number of visiting judges | 14 | 14 | 15 | 14 | 11 | 13 | 13 | 18 | 15 | 13 | 17 | 11 |
| Total number of sessions held by visiting judges | 393 | 321 | 239 | 409 | 334 | 314 | 466 | 474 | 461 | 376 | 335 | 261 |

[1] Resigned in March.
[2] Resigned in April.
[3] Died in March.
[4] Appointed in May.
[5] Transferred to Court of Customs Appeals in March.
[6] Appointed in June.

Mr. AUSTIN. Next, I ask unanimous consent to have printed in the RECORD tables prepared by me, namely, table A, table B, table C, and table D, graphically indicating that

[5] The number of criminal, civil (United States) and civil (private) cases per judge filed in each of the districts in the United States in the fiscal year ending June 30, 1938 (to which the measuring stick, 400–200–200, might be applied), was as follows: Alabama (northern district), 308–137–58; Alabama (middle district), 199–38–44; Alabama (southern district), 271–61–29; Arizona, 727–62–90; Arkansas (eastern district), 408–148–235; Arkansas (western district), 173–79–90; California (northern district), 181–96–105; California (southern district), 108–41–71; Colorado, 176–136–86; Connecticut, 77–148–33; Delaware, 88–34–77; Florida (northern district), 165–43–39; Florida (southern district), 213–67–155; Georgia (western district), 496–339–80; Georgia (middle district), 562–70–61; Georgia (southern district), 372–59–58; Idaho, 98–72–40; Illinois (northern district), 148–110–165; Illinois (eastern district), 85–34–36; Illinois (southern district), 124–35–58; Indiana (northern district), 128–81–151; Indiana (southern district), 125–93–137; Iowa (northern district), 82–54–38; Iowa (southern district), 56–42–68; Kansas, 228–84–160; Kentucky (eastern district), 879(?)–89(?)–124(?); Kentucky (western district), 620(?)–247(?)–136(?); Louisiana (eastern district), 261–114–230; Louisiana (western district), 299–94–65; Maine, 241–52–52; Maryland, 131–75–125; Massachusetts, 90–85–91; Michigan (eastern district), 144–40–231; Michigan (western district), 105–128–73; Minnesota, 90–40–100; Mississippi (northern district), 270–56–60; Mississippi (southern district), 552–874–196; Missouri (eastern district), 200–93–113; Missouri (western district), 218–30–128; Montana, 106–78–42; Nebraska, 95–42–86; Nevada, 195–17–28; New Hampshire, 66–13–39; New Jersey, 110–97–127; New Mexico, 283–53–61; New York (northern district), 138–83–42; New York (eastern district), 56–37–97; New York (southern district), 99–70–199; New York (western district), 178–68–85; North Carolina (eastern district), 369–72–71; North Carolina (middle district, 494–87–55; North Carolina (western district), 407–78–78; North Dakota, 150–97–96; Ohio (northern district), 166–51–159; Ohio (southern district), 150–49–56; Oklahoma (northern district), 260–100–114; Oklahoma (eastern district), 413–42–72; Oklahoma (western district), 260–109–170; Oregon, 128–40–71; Pennsylvania (eastern district), 76–60–170; Pennsylvania (middle district), 96–48–61; Pennsylvania (western district), 110–61–114; Rhode Island, 81–68–37; South Carolina (eastern district), 569(?)–76(?)–157(?); South Carolina (western district), 204(?)–48(?)–74(?); Tennessee (eastern district, 480–96–97; Tennessee (middle district), 282–62–50; Tennessee (western district), 146–51–54; Texas (northern district), 165–42–127; Texas (eastern district), 415–89–264; Texas (southern district), 1640–253–329; Texas (western district), 647–32–69; Utah, 125–84–37; Vermont, 145–41–118; Virginia (eastern district), 232–66–65; Virginia (western district), 193–30–20; Washington (eastern district), 227–54–32; Washington (western district), 205–84–70; West Virginia (northern district), 108–70–48; West Virginia (southern district), 329–39–43; Wisconsin (eastern district), 95–67–127; Wisconsin (western district), 63–66–50; Wyoming, 82–13–37.

the judicial business in the southern district of New York has had a marked decline, which corresponds generally to the decline in judicial business throughout all the districts in the United States. This supports the provision of the pending bill with respect to one judge instead of three judges for the southern district of New York. Let me say, for the information of the Senate, that the bill originally carried a repealer of the clause in the act of 1937, adding one judge to the southern district of New York, which made that judgeship nonfillable. This particular clause would accomplish the same purpose as House bill 5906 which I first put in the RECORD, and, of course, if the Senate should pass the bill as it is amended, then, the Senate should not pass House bill 5906.

That is all I care to put into the RECORD.

There being no objection, the tables referred to were ordered to be printed in the RECORD, as follows:

TABLE A.—*Southern district of New York (1930 census, 4,145,557), civil cases exclusive of bankruptcy cases*

| | U. S. Government civil | | | | Other civil | | | |
|---|---|---|---|---|---|---|---|---|
| | Pending (beginning) | Filed | Terminated | Pending (end) | Pending (beginning) | Filed | Terminated | Pending (end) |
| 1928 | 3,343 | 1,515 | 1,067 | 3,791 | 3,936 | 2,205 | 1,501 | 4,640 |
| 1929 | 3,791 | 1,384 | 1,352 | 3,823 | 4,640 | 2,013 | 2,070 | 4,583 |
| 1930 | 3,823 | 2,010 | 1,762 | 4,071 | 4,583 | 2,260 | 1,611 | 5,232 |
| 1931 | 4,071 | 2,667 | 2,616 | 4,122 | 5,232 | 1,810 | 1,674 | 5,368 |
| 1932 | 4,122 | 3,709 | 4,017 | 3,814 | 5,368 | 1,709 | 3,077 | 4,000 |
| 1933 | ---------- | 2,872 | 3,571 | 3,115 | ---------- | 1,731 | 2,142 | 3,589 |
| 1934 | ---------- | 886 | 2,261 | 1,740 | ---------- | 1,997 | 2,094 | 3,492 |
| 1935 | 1,740 | 442 | 727 | 1,455 | 3,492 | 541 | 1,048 | 2,985 |
| 1936 | 981 | 782 | 845 | 918 | 3,603 | 2,268 | 1,963 | 3,908 |
| 1937 | 918 | 695 | 897 | 716 | 3,908 | 1,980 | 3,028 | 2,860 |
| 1938 | 716 | 846 | 819 | 743 | 2,860 | 2,392 | 2,427 | 2,825 |
| 1939 [1] | 1,493 | 1,631 | 1,338 | 1,786 | 2,828 | 1,610 | 1,677 | 2,761 |

[1] Hearings Apr. 13 and 17, 1939, Hon. John Clark Knox, United States district judge, filed statistics, p. 21 et seq., including 9 months, July 1938 to April 1939, which sum up all cases of all kinds.

TABLE B.—*Criminal cases*

| Year ended | Pending (beginning) | Filed | Terminated | Convictions | Pending (end) | |
|---|---|---|---|---|---|---|
| 1928 | 1,931 | 9,708 | 8,863 | 7,880 | 2,776 | 4 judges. |
| 1929 | 2,776 | 8,374 | 8,202 | 7,016 | 2,948 | 7 judges (Feb. 29, 1929, 3 additional). |
| 1930 | 1,950 | 6,305 | 3,297 | 2,783 | 6,013 | |
| 1931 | 6,013 | 9,397 | 10,047 | 8,927 | [1] 6,363 | 1 judge resigned and vacancy not filled; hearings p. 4. However assignment of help made under U. S. C. title 28, sec. 17. |
| 1932 | 5,363 | 8,142 | 10,782 | 8,862 | 2,723 | |
| 1933 | ---------- | 5,992 | 6,441 | 5,291 | 1,966 | |
| 1934 | ---------- | 1,062 | 2,612 | 1,232 | 416 | |
| 1935 | 416 | 326 | 315 | 271 | 427 | 9 judges (June 15, 1936, 2 additional). |
| 1936 | 499 | 779 | 787 | 619 | 491 | |
| 1937 | 491 | 920 | 928 | 764 | 483 | 710 judges. (May 31, 1938, 1 additional.) Vacancy not to be filled; to be repealed by S. 2185, 76th Cong. |
| 1938 | 483 | 1,183 | 916 | 815 | 750 | |
| 1939 [2] | | | | | | |

[1] Public health and safety cases included. Conference recommended 2 additional judges.

[2] 9 months of 1939 included in table A, supra. April 1, 1939, indictments pending, 915; hearings, p. 23.

Have had assistance from several judges upstate and 2 from eastern district, hearings, p. 18.

TABLE C.—*Bankruptcy cases*

| Year ending | Pending (beginning) | Filed | Concluded | Pending (end) | Under | |
|---|---|---|---|---|---|---|
| | | | | | Sec. 77 | Sec. 77B |
| 1928 | 3,724 | 2,057 | 2,515 | 3,266 | ---------- | ---------- |
| 1929 | 3,266 | 2,094 | 2,241 | 3,119 | ---------- | ---------- |
| 1930 | 3,119 | 2,027 | 1,785 | 3,361 | ---------- | ---------- |
| 1931 | 3,361 | 2,357 | 2,315 | 3,403 | ---------- | ---------- |
| 1932 | 3,403 | 3,008 | 2,039 | 4,372 | ---------- | ---------- |
| 1933 | ---------- | 3,054 | 3,295 | 4,231 | ---------- | ---------- |
| 1934 | 4,131 | 2,369 | 3,399 | 3,101 | ---------- | ---------- |
| 1935 | 3,101 | 2,648 | 2,602 | 2,948 | 29 | ---------- |
| 1936 | 2,948 | 3,038 | 2,453 | 3,357 | ---------- | 78 |
| 1937 | 3,457 | 2,450 | 1,848 | 3,756 | ---------- | 3 |
| 1938 | 3,311 | 2,983 | 2,790 | 3,286 | ---------- | 190 |

Much of the work under Sec. 77B is now taken care of by referrees; hearings p. 17.

TABLE D.—*Number of cases averaged to show judicial work terminated per year per judge*

| Cases terminated | 6 judges, 1928 | 8 judges | | | | | | | 11 judges | | 11 judges, first 6 months, 10 judges; second 6 months, 1938 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 1929 | 1930 | 1931 | 1932 | 1933 | 1934 | 1935 | 1936 | 1937 | |
| U. S. Government, civil | 1,067 | 1,352 | 1,762 | 2,616 | 4,017 | 3,571 | 2,261 | 727 | 845 | 897 | 819 |
| Other civil | 1,501 | 2,070 | 1,611 | 1,674 | 3,077 | 2,142 | 2,094 | 1,048 | 1,963 | 3,028 | 2,427 |
| Criminal | 8,863 | 8,202 | 3,297 | 10,047 | 10,782 | 5,291 | 1,232 | 271 | 619 | 764 | 815 |
| Bankruptcy | 2,515 | 2,241 | 1,785 | 2,315 | 2,039 | 3,295 | 3,399 | 2,602 | 2,453 | 1,848 | 2,790 |
| | 13,946 | | | | | | | | | | |
| 6 judges, average | 2,325 | | | | | | | | | | |
| | | 13,865 | 8,455 | 16,652 | 19,915 | 14,299 | 8,986 | 4,648 | | | |
| 8 judges, average | | 1,733 | 1,056 | 2,082 | 2,489 | 1,787 | 1,123 | 581 | | | |
| | | | | | | | | | 5,880 | 6,537 | |
| 11 judges, average | | | | | | | | | 553 | 594 | |
| | | | | | | | | | | | 6,851 |
| 12 judges, average | | | | | | | | | | | 570 |
| Total, exclusive of bankruptcy | 11,431 | 11,624 | 6,670 | 14,337 | 17,876 | 11,004 | 5,587 | 2,046 | 3,527 | 4,689 | 4,061 |
| 6 judges, average | 1,905 | | | | | | | | | | |
| 8 judges, average | | 1,453 | 834 | 1,792 | 2,235 | 1,376 | 698 | 256 | | | |
| 11 judges, average | | | | | | | | | 329 | 426 | |
| 12 judges, average | | | | | | | | | | | 340 |

Mr. ASHURST. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. ASHURST. The bill to which the Senator last referred, House bill 5906, is not before the Senate, and has not been reported by the Senate Committee on the Judiciary. I do not recall that the Senate Committee on the Judiciary has reported that bill.

Mr. AUSTIN. I am now informed that House bill 5906 passed the House of Representatives on July 17, and is not yet before the Senate.

Mr. ASHURST. It has not been considered by the Senate Committee on the Judiciary, of which the Senator from Vermont is a very able and respected member?

Mr. AUSTIN. It has not.

Mr. ASHURST. If the Senator will pardon me, so that it may go in the RECORD—I ask the Senator from Vermont to correct me if I am wrong—the Judiciary Committee, I will say, after a year or more of careful investigation came to the conclusion definitely that the only additional judges at this time needed were one circuit judge for the sixth

circuit, one circuit judge for the eighth circuit, and one district judge each for the southern district of California, the district of New Jersey, the western district of Oklahoma, the eastern district of Pennsylvania, the southern district of New York, and for the northern and southern districts of Florida.

I do not mean to say that the entire judiciary committee supported all these, but so far as I recall, no member of the Senate Committee on the Judiciary urged any additional judgeship other than those proposed to be created by this bill. If I remember correctly, the repealer, that is, the amendment on page 2 to which the Senator referred, was adopted unanimously by the committee, so that, in no circumstance, so far as this bill is concerned, will there be no more than one additional judge for the State of New York.

Mr. AUSTIN. Mr. President, may I ask the Senator if he means exactly what he said? The repealer contained in section 3 was not adopted, was it? The Judiciary Committee unanimously agreed to strike out section 3.

Mr. ASHURST. Yes; it adopted the amendment to the bill.

Mr. AUSTIN. To strike out the repealer.

Mr. ASHURST. That is correct; the committee adopted the amendment which would strike out the repealer.

Mr. AUSTIN. That is correct.

Mr. ASHURST. We are in agreement on that.

### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate, by Mr. Latta, one of his secretaries.

### MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2805) to authorize the attendance of the United States Naval Academy Band at the New York World's Fair on the day designated as Maryland Day at such fair, and it was signed by the Vice President.

### POSTPONEMENT OF NEUTRALITY LEGISLATION AND BUSINESS

Mr. VANDENBERG. Mr. President, I wish to read into the RECORD two headlines from an evening paper, merely "to keep the record straight," as they say down the street. The first headline says:

Senate killed boom, says President.

And the explanatory opening sentence is:

President Roosevelt today asserted that the Senate's action in failing to act on neutrality had killed off a fine little business boom.

On the back page, the headline says:

Stocks spurt one to three dollars in fast trading.

And the first explanatory sentence says:

The stock market resumed its advance in a sharp run-up of 1 to more than 3 points today, after absorbing profit-taking through the two preceding sessions.

So I am not clear what "boom" it is that the Senate is about to deflate unless it is the third-term boom.

### TRAFFIC SAFETY

Mr. TRUMAN. Mr. President, I merely wish to make a few remarks on traffic safety. I am interested in that subject not only because of its great importance, but because the Senate has, by unanimous consent, passed a bill which vitally affects safety on the highways.

Mr. President, on numerous occasions the Congress has shown keen interest in the problem of giving our country safer and more efficient highway transportation. There is now before Congress a comprehensive report prepared by Thomas H. MacDonald, Commissioner of Public Roads, outlining a plan for adjusting our highway system to modern needs. Numerous legislative proposals have been enacted which have as an objective the encouragement of highway safety. The Senate has twice passed a measure which I introduced, and which would fix standards to be met by operators of motor vehicles moving in interstate commerce. I cite these things as evidence of the broad scope of the traffic-safety problem, and the importance of doing all we can to improve existing conditions.

Fortunately, many national organizations have taken the leadership in sound programs of action. The automotive industry, which has always been concerned with the users of its products, has devoted time, energy, and money to bettering traffic conditions. The results of this coordinated program have been fine. For the past 19 months there has been a consistent reduction in the number of traffic deaths and injuries. The death rate in terms of vehicle mileage has been steadily cut. In fact, when it is considered that the motor age really covers a period of less than 30 years, that the greater mileage of streets and roads was designed for horse-drawn vehicles, and that approximately 30,000,000 vehicles of various types are daily in the hands of 45,000,000 persons of varying temperaments and qualifications, highway transportation today is a marvel of efficiency, if not of safety.

Nevertheless the broad attack on the accident problem must be continued and given new momentum wherever possible. No phase of this attack is more important than that which has to do with training traffic safety personnel and educating drivers and pedestrians. It is fortunate that thousands of men and women are prepared and are being prepared to make a career of specialized traffic safety activities.

Within the past few years more than 4,000 persons have been given specialized training in new traffic-safety methods in addition to the regular training programs of police, school, motor-vehicle, and highway departments. At Yale University and at Northwestern University outstanding training courses are given to traffic engineers and police officers on a year-round basis. Approximately 2,000 teachers have been trained by interested organizations in cooperation with colleges, universities, and schools. They will fill the need for experienced instructors.

In the schools of the country approximately 16,000,000 school children are receiving some form of traffic education. This phase of traffic-safety education is started through posters in kindergarten, and rounded out with high-school studies in actual training in sound driving and pedestrian practices. Additional thousands of students are receiving behind-the-wheel training—actual experience in driving—through the cooperation of automobile manufacturers and dealers, who are making cars available for this purpose.

I was interested in a statement made a few days ago by Commissioner MacDonald. He said, in part:

Modernization of the country's road system, with particular emphasis on elimination of congestion, will undoubtedly minimize traffic hazards. Such a program has been recommended to Congress on the basis of findings from the highway planning surveys now under way in 46 States. It recognizes that motor-vehicle traffic on main highways in 1960 will be virtually double that of today. It is also designed to preserve the principle of free highways.

Obviously, as the highway program is pushed forward there must be related activities to assure the efficient and safe movement of vehicles. It is fortunate that many national organizations, some of which have been identified with highway transport since its beginning, are furnishing leadership in mobilizing public sentiment favorable to better roads and better traffic conditions. The automobile industry is playing a vital role in this movement. The objective of these groups is the general adoption of a standard highway safety program embodying principles which have already proven effective. This standard program is approved and supported by 46 national organizations.

The National Institue for Traffic Safety Training is closely identified with the seven-point program for highway safety. It supplements what police, motor-vehicle, school, and highway departments are doing in training personnel—persons who will make careers of specialized service in the traffic safety field. The institute is making an important contribution to the traffic-safety movement and deserves universal support.

It is the National Institute for Traffic Safety Training to which I want specifically to refer. The institute is an outgrowth of the demand of traffic-safety workers for an opportunity to keep abreast with the administration in modern techniques. It is sponsored by 11 national organizations, as follows: American Automobile Association, American Association of Motor Vehicle Administrators, American Association of State Highway Officials, American Public

Works Association, Automotive Safety Foundation, Highway Education Board, Institute of Traffic Engineers, International Association of Chiefs of Police, National Safety Council, Northwestern University Traffic Institute, Yale University Bureau for Street Traffic Research.

The administrative committee for the Institute, which will be held at the University of Michigan, Ann Arbor, August 14–26, includes outstanding leaders in the traffic safety movement. It includes such distinguished persons as Dr. Alexander G. Ruthven, honorary chairman; Miller McClintock, director of the Yale University Bureau, chairman; Norman Damon, director of the Automotive Safety Foundation; Lt. F. M. Kreml, director of the Northwestern University Traffic Institute; Burton W. Marsh, director of safety and traffic engineering, American Automobile Association; and Sidney Williams, director of public-safety division, National Safety Council.

The institute will offer special courses in accident investigation by police, advanced methods of adult-driver training, administration of drivers' license examinations, traffic engineering, traffic-accident reports and records, vehicle fleet safety, traffic-safety education in elementary schools, traffic-safety education in secondary schools, and safety organizations and public education.

I feel confident that Members of Congress and State, county, and municipal officials everywhere are keenly interested in and are heartily supporting organized programs for traffic-safety training. My purpose in citing this program is because I am wholeheartedly in accord with the objectives, and I believe it is the responsibility of Congress to further every sound movement for promoting traffic safety, to the end that our people may enjoy full benefits from highway transportation.

## REGULATION OF SALE OF CERTAIN SECURITIES, AND THE REGULATION OF TRUST INDENTURES

The PRESIDING OFFICER (Mr. ANDREWS in the Chair) laid before the Senate the amendment of the House to the bill (S. 2065) to provide for the regulation of the sale of certain securities in interstate and foreign commerce and through the mails, and the regulation of the trust indentures under which the same are issued, and for other purposes, which was to strike out all after the enacting clause and insert:

That the act entitled "An act to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes," approved May 27, 1933, as amended, is amended by adding at the end thereof the following:

"TITLE III

"SHORT TITLE

"SECTION 301. This title, divided into sections as follows, may be cited as the 'Trust Indenture Act of 1939':

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"TITLE III



"NECESSITY FOR REGULATION

"SEC. 302. (a) Upon the basis of facts disclosed by the reports of the Securities and Exchange Commission made to the Congress pursuant to section 211 of the Securities Exchange Act of 1934 and otherwise disclosed and ascertained, it is hereby declared that the national public interest and the interest of investors in notes, bonds, debentures, evidences of indebtedness, and certitficates of interest or participation therein, which are offered to the public, are adversely affected—

"(1) When the obligor fails to provide a trustee to protect and enforce the rights and to represent the interests of such investors, notwithstanding the fact that (A) individual action by such investors for the purpose of protecting and enforcing their rights is rendered impracticable by reason of the disproportionate expense of taking such action, and (B) concerted action by such investors in their common interest through representatives of their own selection is impeded by reason of the wide dispersion of such investors through many States, and by reason of the fact that information as to the names and addresses of such investors generally is not available to such investors;

"(2) When the trustee does not have adequate rights and powers, or adequate duties and responsibilities, in connection with matters relating to the protection and enforcement of the rights of such investors; when, notwithstanding the obstacles to concerted action by such investors, and the general and reasonable assumption by such investors that the trustee is under an affirmative duty to take action for the protection and enforcement of their rights, trust indentures (A) generally provide that the trustee shall be under no duty to take any such action, even in the event of default, unless it receives notice of default, demand for action, and indemnity, from the holders of substantial percentages of the securities outstanding thereunder, and (B) generally relieve the trustee from liability even for its own negligent action or failure to act;

"(3) When the trustee does not have resources commensurate with its responsibilities, or has any relationship to or connection with the obligor or any underwriter of any securities of the obligor, or holds, beneficially or otherwise, any interest in the obligor or any such underwriter, which relationship, connection, or interest involves a material conflict with the interests of such investors;

"(4) When the obligor is not obligated to furnish to the trustee under the indenture and to such investors adequate current information as to its financial condition, and as to the performance of its obligations with respect to the securities outstanding under such indenture; or when the communication of such information to such investors is impeded by the fact that information as to the names and addresses of such investors generally is not available to the trustee and to such investors;

"(5) When the indenture contains provisions which are misleading or deceptive, or when full and fair disclosure is not made to prospective investors of the effect of important indenture provisions; or

"(6) When, by reason of the fact that trust indentures are commonly prepared by the obligor or underwriter in advance of the public offering of the securities to be issued thereunder, such investors are unable to participate in the preparation thereof, and, by reason of their lack of understanding of the situation, such investors would in any event be unable to procure the correction of the defects enumerated in this subsection.

"(b) Practices of the character above enumerated have existed to such an extent that, unless regulated, the public offering of notes, bonds, debentures, evidences of indebtedness, and certificates of interest or participation therein, by the use of means and instruments of transportation and communication in interstate commerce and of the mails, is injurious to the capital markets, to investors, and to the general public; and it is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted, to meet the problems and eliminate the practices, enumerated in this section, connected with such public offerings.

"DEFINITIONS

"SEC. 303. When used in this title, unless the context otherwise requires—

"(1) Any term defined in section 2 of the Securities Act of 1933, as heretofore amended, and not otherwise defined in this section, shall have the meaning assigned to such term in such section 2.

"(2) The term 'sale' or 'sell' shall include all transactions included in such term as provided in paragraph (3) of section 2 of the Securities Act of 1933, as heretofore amended, except that a sale of a certificate of interest or participation shall be deemed a sale of the security or securities in which such certificate evidences an interest or participation if and only if such certificate gives the holder thereof the right to convert the same into such security or securities.

"(3) The term 'prospectus' shall have the meaning assigned to such term in paragraph (10) of section 2 of the Securities Act of 1933, as heretofore amended, except that in the case of securities which are not registered under the Securities Act of 1933, such term shall not include any communication (A) if it is proved that prior to or at the same time with such communication a written statement meeting the requirements of subsection (c) of section 305 was sent or given to the persons to whom the communication was made, by the person making such communication or his principal, or (B) if such communication states from whom such statement may be obtained and, in addition, does no more than identify the security, state the price thereof, and state by whom orders will be executed.

"(4) The term 'underwriter' means any person who has purchased from an issuer with a view to, or sells for an issuer in connection with the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

"(5) The term 'director' means any director of a corporation, or any individual performing similar functions with respect to any organization whether incorporated or unincorporated.

"(6) The term 'executive officer' means the president, every vice president, every trust officer, the cashier, the secretary, and the treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization whether incorporated or unincorporated, but shall not include the chairman of the board of directors.

"(7) The term 'indenture' means any mortgage, deed of trust, trust or other indenture, or similar instrument or agreement (including any supplement or amendment to any of the foregoing), under which securities are outstanding or are to be issued, whether or not any property, real or personal, is, or is to be, pledged, mortgaged, assigned, or conveyed thereunder.

"(8) The term 'application' or 'application for qualification' means the application provided for in section 307, and includes any amendment thereto and any report, document, or memorandum accompanying such application or incorporated therein by reference.

"(9) The term 'indenture to be qualified' means (A) the indenture under which there has been or is to be issued a security in respect of which a particular registration statement has been filed, or (B) the indenture in respect of which a particular application has been filed.

"(10) The term 'indenture trustee' means each trustee under the indenture to be qualified, and each successor trustee.

"(11) The term 'indenture security' means any security issued or issuable under the indenture to be qualified.

"(12) The term 'obligor,' when used with respect to any such indenture security, means every person who is liable thereon, and, if such security is a certificate of interest or participation, such term means also every person who is liable upon the security or securities in which such certificate evidences an interest or participation; but such term shall not include the trustee under an indenture under which certificates of interest or participation, equipment trust certificates, or like securities are outstanding.

"(13) The term 'paying agent,' when used with respect to any such indenture security, means any person authorized by an obligor thereon (A) to pay the principal of or interest on such security on behalf of such obligor, or (B) if such security is a certificate of interest or participation, equipment trust certificate, or like security, to make such payment on behalf of the trustee.

"(14) The term 'State' means any State of the United States.

"(15) The term 'Commission' means the Securities and Exchange Commission.

"(16) The term 'voting security' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement, or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person; and a specified percentage of the voting securities of a person means such amount of the outstanding voting securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast in the direction or management of the affairs of such person.

"(17) The terms 'Securities Act of 1933,' 'Securities Exchange Act of 1934,' and 'Public Utility Holding Company Act of 1935' shall be deemed to refer, respectively, to such acts, as amended, whether amended prior to or after the enactment of this title.

"(18) The term 'Bankruptcy Act' means the act entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, as amended, whether amended prior to or after the enactment of this title.

"EXEMPTED SECURITIES AND TRANSACTIONS

"SEC. 304. (a) The provisions of this title shall not apply to any of the following securities:

"(1) Any security other than (A) a note, bond, debenture, or evidence of indebtedness, whether or not secured, or (B) a certificate of interest or participation in any such note, bond, debenture, or evidence of indebtedness, or (C) a temporary certificate for, or guaranty of, any such note, bond, debenture, evidence of indebtedness, or certificate;

"(2) Any certificate of interest or participation in two or more securities having substantially different rights and privileges, or a temporary certificate for any such certificate;

"(3) Any security which, prior to or within 6 months after the enactment of this title, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offering of any such security by an issuer subsequent to such 6 months;

"(4) Any security exempted from the provisions of the Securities Act of 1933, as heretofore amended, by paragraph (2), (3), (4), (5), (6), (7), (8), or (11) of subsection 3 (a) thereof;

"(5) Any security issued under a mortgage indenture as to which a contract of insurance under the National Housing Act is in effect; and any such security shall be deemed to be exempt from the provisions of the Securities Act of 1933 to the same extent as though such security were specifically enumerated in section 3 (a) (2) of such act;

"(6) Any note, bond, debenture, or evidence of indebtedness issued or guaranteed by a foreign government or by a subdivision, department, municipality, agency, or instrumentality thereof;

"(7) Any guaranty of any security which is exempted by this subsection;

"(8) Any security which has been or is to be issued otherwise than under an indenture, but this exemption shall not be applied within a period of 12 consecutive months to more than $250,000 aggregate principal amount of any securities of the same issuer; or

"(9) Any security which has been or is to be issued under an indenture which limits the aggregate principal amount of securities at any time outstanding thereunder to $1,000,000 or less, but this exemption shall not be applied within a period of 36 consecutive months to more than $1,000,000 aggregate principal amount of securities of the same issuer.

In computing the aggregate principal amount of securities to which the exemptions provided by paragraphs (8) and (9) may be applied, securities to which the provisions of sections 305 and 306 would not have applied, irrespective of the provisions of those paragraphs, shall be disregarded.

"(b) The provisions of sections 305 and 306 shall not apply (1) to any of the transactions exempted from the provisions of section 5 of the Securities Act of 1933 by section 4 thereof, as heretofore amended, or (2) to any transaction which would be so exempted but for the last sentence of paragraph (11) of section 2 of such act.

"(c) The Commission shall, on application by the issuer and after opportunity for hearing thereon, by order exempt from any one or more provisions of this title any security issued or proposed to be issued under any indenture under which, at the time such application is filed, securities referred to in paragraph (3) of subsection (a) of this section are outstanding, if and to the extent that the Commission finds that compliance with such provision or provisions, through the execution of a supplemental indenture or otherwise—

"(1) Would require, by reason of the provisions of such indenture, or the provisions of any other indenture or agreement made prior to the enactment of this title, or the provisions of any applicable law, the consent of the holders of securities outstanding under any such indenture or agreement; or

"(2) Would impose an undue burden on the issuer, having due regard to the public interest and the interests of investors.

"(d) The Commission may, on application by the issuer and after opportunity for hearing thereon, by order exempt from any one or more of the provisions of this title any security issued or proposed to be issued by a person organized and existing under the laws of a foreign government or a political subdivision thereof, if and to the extent that the Commission finds that compliance with such provision or provisions is not necessary in the public interest and for the protection of investors.

"SECURITIES REQUIRED TO BE REGISTERED UNDER SECURITIES ACT

"SEC. 305. (a) Subject to the provisions of section 304, a registration statement relating to a security shall include the following information and documents, as though such inclusion were required by the provisions of section 7 of the Securities Act of 1933—

"(1) Such information and documents as the Commission may by rules and regulations prescribe in order to enable the Commission to determine whether any person designated to act as trustee under the indenture under which such security has been or is to be issued is eligible to act as such under subsection (a) of section 310 or has a conflicting interest as defined in subsection (b) of section 310; and

"(2) An analysis of any provisions of such indenture with respect to (A) the definition of what shall constitute a default under such indenture, and the withholding of notice to the indenture security holders of any such default, (B) the authentication and delivery of the indenture securities and the application of the proceeds thereof, (C) the release or the release and

substitution of any property subject to the lien of the indenture, (D) the satisfaction and discharge of the indenture, and (E) the evidence required to be furnished by the obligor upon the indenture securities to the trustee as to compliance with the conditions and covenants provided for in such indenture."

The information and documents required by paragraph (1) of this subsection with respect to the person designated to act as indenture trustee shall be contained in a separate part of such registration statement, which part shall be signed by such person. Such part of the registration statement shall be deemed to be a document filed pursuant to this title, and the provisions of sections 11, 12, 17, and 24 of the Securities Act of 1933 shall not apply to statements therein or omissions therefrom.

"(b) The Commission shall issue an order prior to the effective date of registration refusing to permit such a registration statement to become effective, if it finds that—

"(1) The security to which such registration statement relates has not been or is not to be issued under an indenture;

"(2) Such indenture does not conform to the requirements of sections 310 to 318, inclusive; or

"(3) Any person designated as trustee under such indenture is not eligible to act as such under subsection (a) of section 310 or has any conflicting interest as defined in subsection (b) of section 310;"

but no such order shall be issued except after notice and opportunity for hearing within the periods and in the manner required with respect to refusal orders pursuant to section 8 (b) of the Securities Act of 1933. If and when the Commission deems that the objections on which such order was based have been met, the Commission shall enter an order rescinding such refusal order, and the registration shall become effective at the time provided in section 8 (a) of the Securities Act of 1933, or upon the date of such rescission, whichever shall be the later.

"(c) A prospectus relating to any such security shall include, as though such inclusion were required by section 10 of the Securities Act of 1933, a written statement containing the analysis, set forth in the registration statement, of any indenture provisions with respect to the matters specified in paragraph (2) of subsection (a) of this section, together with a supplementary analysis, prepared by the Commission, of such provisions and of the effect thereof, if, in the opinion of the Commission, the inclusion of such supplementary analysis is necessary or appropriate in the public interest or for the protection of investors, and the Commission so declares by order after notice and, if demanded by the issuer, opportunity for hearing thereon. Such order shall be entered prior to the effective date of registration, except that if opportunity for hearing thereon is demanded by the issuer such order shall be entered within a reasonable time after such opportunity for hearing.

"(d) The provisions of sections 11, 12, 17, and 24 of the Securities Act of 1933, and the provisions of sections 323 and 325 of this title, shall not apply to statements in or omissions from any analysis required under the provisions of this section or section 306 or 307.

"SECURITIES NOT REGISTERED UNDER SECURITIES ACT

"SEC. 306. (a) In the case of any security which is not registered under the Securities Act of 1933 and to which this subsection is applicable notwithstanding the provisions of section 304, unless such security has been or is to be issued under an indenture and an application for qualification is effective as to such indenture, it shall be unlawful for any person, directly or indirectly—

"(1) To make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or

"(2) To carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

"(b) In the case of any security which is not registered under the Securities Act of 1933, but which has been or is to be issued under an indenture as to which an application for qualification is effective, it shall be unlawful for any person, directly or indirectly—

"(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any such security, unless such prospectus includes or is accompanied by a written statement that meets the requirements of subsection (c) of section 305; or

"(2) to carry or to cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a written statement that meets the requirements of subsection (c) of section 305.

"QUALIFICATION OF INDENTURES COVERING SECURITIES NOT REQUIRED TO BE REGISTERED

"SEC. 307. (a) In the case of any security which is not required to be registered under the Securities Act of 1933 and to which subsection (a) of section 306 is applicable notwithstanding the provisions of section 304, an application for qualification of the indenture under which such security has been or is to be issued shall be filed with the Commission by the issuer of such security. Each such application shall be in such form, and shall be signed in such manner, as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors. Each such application shall include the information and documents required by subsection (a) of section 305. The information and documents required by paragraph (1) of such subsection with respect to the person designated to act as indenture trustee shall be contained in a separate part of such application, which part shall be signed by such person. Each such application shall also include such of the other information and documents which would be required to be filed in order to register such indenture security under the Securities Act of 1933 as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors. An application may be withdrawn by the applicant at any time prior to the effective date thereof. Subject to the provisions of section 321, the information and documents contained in or filed with any application shall be made available to the public under such regulations as the Commission may prescribe, and copies thereof, photostatic or otherwise, shall be furnished to every applicant therefor at such reasonable charge as the Commission may prescribe.

"(b) The filing with the Commission of an application, or of an amendment to an application, shall be deemed to have taken place upon the receipt thereof by the Commission, but, in the case of an application, only if it is accompanied or preceded by payment to the Commission of a filing fee in the amount of $100, such payment to be made in cash or by United States postal money order or certified or bank check, or in such other medium of payment as the Commission may authorize by rule and regulation.

"(c) The provisions of section 8 of the Securities Act of 1933 and the provisions of subsection (b) of section 305 of this title shall apply with respect to every such application, as though such application were a registration statement filed pursuant to the provisions of such act.

"INTEGRATION OF PROCEDURE WITH SECURITIES ACT AND OTHER ACTS

"SEC. 308. (a) The Commission, by such rules and regulations or orders as it deems necessary or appropriate in the public interest or for the protection of investors, shall authorize the filing of any information or documents required to be filed with the Commission under this title, or under the Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935, by incorporating by reference any information or documents on file with the Commission under this title or under any such act.

"(b) The Commission, by such rules and regulations or orders as it deems necessary or appropriate in the public interest or for the protection of investors, shall provide for the consolidation of applications, reports, and proceedings under this title with registration statements, applications, reports, and proceedings under the Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935.

"WHEN QUALIFICATION BECOMES EFFECTIVE; EFFECT OF QUALIFICATION

"SEC. 309. (a) The indenture under which a security has been or is to be issued shall be deemed to have been qualified under this title—

"(1) when registration becomes effective as to such security; or

"(2) when an application for the qualification of such indenture becomes effective pursuant to section 307.

"(b) After qualification has become effective as to the indenture under which a security has been or is to be issued, no stop order shall be issued pursuant to section 8 (d) of the Securities Act of 1933, suspending the effectiveness of the registration statement relating to such security or of the application for qualification of such indenture, except on one or more of the grounds specified in section 8 of such act.

"(c) The making, amendment, or rescission of a rule, regulation, or order under the provisions of this title (except to the extent authorized by subsection (a) of section 314 with respect to rules and regulations prescribed pursuant to such subsection) shall not affect the qualification, form, or interpretation of any indenture as to which qualification became effective prior to the making, amendment, or rescission of such rule, regulation, or order.

"(d) No trustee under an indenture which has been qualified under this title shall be subject to any liability because of any failure of such indenture to comply with any of the provisions of this title, or any rule, regulation, or order thereunder.

"(e) Nothing in this title shall be construed as empowering the Commission to conduct an investigation or other proceeding for the purpose of determining whether the provisions of an indenture which has been qualified under this title are being complied with, or to enforce such provisions.

"ELIGIBILITY AND DISQUALIFICATION OF TRUSTEE

"Persons eligible for appointment as trustee

"SEC. 310. (a) (1) The indenture to be qualified shall require that there shall at all times be one or more trustees thereunder, at least one of whom shall at all times be a corporation organized and doing business under the laws of the United States or of any State or Territory or of the District of Columbia (referred to in this title as the institutional trustee), which (A) is authorized under such laws to exercise corporate trust powers, and (B) is subject to supervision or examination by Federal, State, Territorial, or District of Columbia authority.

"(2) The indenture to be qualified shall require that such institutional trustee shall have at all times a combined capital and surplus of a specified minimum amount, which shall not be less than $150,000. If such institutional trustee publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, the indenture may provide that, for the purposes of this paragraph, the combined capital and surplus of such trustee shall be deemed

to be its combined capital and surplus as set forth in its most recent report of condition so published.

"(3) If the indenture to be qualified requires or permits the appointment of one or more cotrustees in addition to such institutional trustee, such indenture shall provide that the rights, powers, duties, and obligations conferred or imposed upon the trustees or any of them shall be conferred or imposed upon and exercised or performed by such institutional trustee, or such institutional trustee and such cotrustees jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed, such institutional trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties, and obligations shall be exercised and performed by such cotrustees.

(4) In the case of certificates of interest or participation, the indenture to be qualified shall require that the indenture trustee or trustees have the legal power to exercise all of the rights, powers, and privileges of a holder of the security or securities in which such certificates evidence an interest or participation.

"Disqualification of Trustee

"(b) The indenture to be qualified shall provide that if any indenture trustee has or shall acquire any conflicting interest as hereinafter defined, (i) such trustee shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign, such resignation to become effective upon the appointment of a successor trustee and such successor's acceptance of such appointment, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture; and (ii) in the event that such trustee shall fail to comply with the provisions of clause (i) of this subsection, such trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the indenture security holders in the manner and to the extent provided in subsection (c) of section 313; and (iii) subject to the provisions of subsection (e) of section 315, any security holder who has been a bona fide holder of indenture securities for at least 6 months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request therefor by such holder, to comply with the provisions of clause (i) of this subsection. For the purposes of this subsection, an indenture trustee shall be deemed to have a conflicting interest if—

"(1) such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the indenture securities are outstanding unless (A) the indenture securities are collateral trust notes under which the only collateral consists of securities issued under such other indenture, or (B) such other indenture is a collateral trust indenture under which the only collateral consists of indenture securities, or (C) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing and/or operating, real estate, and the indenture to be qualified and such other indenture are secured by wholly separate and distinct parcels of real estate: *Provided*, That the indenture to be qualified may contain a provision excluding from the operation of this paragraph another indenture or indentures under which other securities, or certificates of interest or participation in other securities, of such an obligor are outstanding, if (i) the indenture to be qualified and such other indenture or indentures are wholly unsecured, and such other indenture or indentures are specifically described in the indenture to be qualified or are thereafter qualified under this title, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the provisions of the indenture to be qualified and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures, or (ii) the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indenture to be qualified and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures;

"(2) such trustee or any of its directors or executive officers is an obligor upon the indenture securities or an underwriter for such an obligor;

"(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an obligor upon the indenture securities or an underwriter for such an obligor;

"(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the indenture securities, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that (A) one individual may be a director and/or an executive officer of the trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the trustee and of such obligor, and (B) if and so long as the number of directors of the trustee in office is more than nine, one additional individual may be a director and/or an executive officer of the trustee and a director of such obligor, and (C) such trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

"(5) 10 percent or more of the voting securities of such trustee is beneficially owned either by an obligor upon the indenture securities or by any director, partner, or executive officer thereof, or 20 percent or more of such voting securities is beneficially owned, collectively, by any two or more of such persons; or 10 percent or more of the voting securities of such trustee is beneficially owned either by an underwriter for any such obligor or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

"(6) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, (A) 5 percent or more of the voting securities, or 10 percent or more of any other class of security, of an obligor upon the indenture securities, not including indenture securities and securities issued under any other indenture under which such trustee is also trustee, or (B) 10 percent or more of any class of security of an underwriter for any such obligor;

"(7) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 5 percent or more of the voting securities of any person who, to the knowledge of the trustee, owns 10 percent or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, an obligor upon the indenture securities;

"(8) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 10 percent or more of any class of security of any person who, to the knowledge of the trustee, owns 50 percent or more of the voting securities of an obligor upon the indenture securities; or

"(9) such trustee owns, on May 15 in any calendar year, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25 percent or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraph (6), (7), or (8) of this subsection. The indenture to be qualified may provide, as to any such securities of which the indenture trustee acquired ownership through becoming executor, administrator, or testamentary trustee of an estate which included them, that the provisions of the preceding sentence shall not apply, for a period of not more than 2 years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25 percent of such voting securities or 25 percent of any such class of security. The indenture to be qualified shall provide that promptly after May 15 in each calendar year, the trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of such May 15. Such indenture shall also provide that if the obligor upon the indenture securities fails to make payment in full of principal or interest under such indenture when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the trustees shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by such trustee, for the purposes of paragraphs (6), (7), and (8) of this subsection.

"The indenture to be qualified shall provide that the specification of percentages in paragraphs (5) to (9), inclusive, of this subsection shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of paragraph (3) or (7) of this subsection.

"For the purposes of paragraphs (6), (7), (8), and (9) of this subsection, (A) the terms 'security' and 'securities' shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness; (B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for 30 days or more, and shall not have been cured; and (C) the indenture trustee shall not be deemed the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for an obligation which is not in default as above defined, or (ii) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent, or depositary, or in any similar representative capacity.

"For the purposes of this subsection, the term 'underwriter' when used with reference to an obligor upon the indenture securities means every person who, within 3 years prior to the time as of which the determination is made, was an underwriter of any security of such obligor outstanding at such time.

"APPLICABILITY OF SECTION

"(c) The Public Utility Holding Company Act of 1935 shall not be held to establish or authorize the establishment of any standards regarding the eligibility and qualifications of any trustee or prospective trustee under an indenture to be qualified under this title, or regarding the provisions to be included in any such indenture with respect to the eligibility and qualifications of the trustee thereunder, other than those established by the provisions of this section.

"PREFERENTIAL COLLECTION OF CLAIMS AGAINST OBLIGOR

"SEC. 311. (a) Subject to the provisions of subsection (b) of this section, the indenture to be qualified shall provide that if the indenture trustee shall be, or shall become, a creditor, directly or indirectly, secured or unsecured, of an obligor upon the indenture securities, within 4 months prior to a default as defined in the last paragraph of this subsection, or subsequent to such a default, then, unless and until such default shall be cured, such trustee shall set apart and hold in a special account for the benefit of the trustee individually and the indenture security holders—

"(1) An amount equal to any and all reductions in the amount due and owing upon any claim as such creditor in respect of principal or interest, effected after the beginning of such 4 months' period and valid as against such obligor and its other creditors, except any such reduction resulting from the receipt or disposition of any property described in paragraph (2) of this subsection, or from the exercise of any right of set-off which the trustee could have exercised if a petition in bankruptcy had been filed by or against such obligor upon the date of such default; and

"(2) All property received in respect of any claim as such creditor, either as security therefor, or in satisfaction or composition thereof, or otherwise, after the beginning of such 4 months' period, or an amount equal to the proceeds of any such property, if disposed of, subject, however, to the rights, if any, of such obligor and its other creditors in such property or such proceeds.

"Nothing herein contained shall affect the right of the indenture trustee—

"(A) To retain for its own account (i) payments made on account of any such claim by any person (other than such obligor) who is liable thereon, and (ii) the proceeds of the bona fide sale of any such claim by the trustee to a third person, and (iii) distributions made in cash, securities, or other property in respect of claims filed against such obligor in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable State law;

"(B) To realize, for its own account, upon any property held by it as security for any such claim, if such property was so held prior to the beginning of such 4 months' period;

"(C) To realize, for its own account, but only to the extent of the claim hereinafter mentioned, upon any property held by it as security for any such claim, if such claim was created after the beginning of such 4 months' period and such property was received as security therefor simultaneously with the creation thereof, and if the trustee shall sustain the burden of proving that at the time such property was so received the trustee had no reasonable cause to believe that a default as defined in the last paragraph of this subsection would occur within 4 months; or

"(D) To receive payment on any claim referred to in paragraph (B) or (C), against the release of any property held as security for such claim as provided in paragraph (B) or (C), as the case may be, to the extent of the fair value of such property."

For the purposes of paragraphs (B), (C), and (D), property substituted after the beginning of such 4 months' period for property held as security at the time of such substitution shall, to the extent of the fair value of the property released, have the same status as the property released, and, to the extent that any claim referred to in any of such paragraphs is created in renewal of or in substitution for or for the purpose of repaying or refunding any preexisting claim of the indenture trustee as such creditor, such claim shall have the same status as such preexisting claim.

"The indenture to be qualified shall provide that, if the trustee shall be required to account, the funds and property held in such special account and the proceeds thereof shall be apportioned between the trustee and the indenture security holders in such manner that the trustee and the indenture security holders realize as a result of payments from such special account and payments of dividends on claims filed against such obligor in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable State law, the same percentage of their respective claims figured before crediting to the claim of the trustee anything on account of the receipt by it from such obligor of the funds and property in such special account and before crediting to the respective claims of the trustee and the indenture security holders dividends on claims filed against such obligor in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable State law, but after crediting thereon receipts on account of the indebtedness represented by their respective claims from all sources other than from such dividends and from the funds and property so held in such special account. As used in this paragraph, with respect to any claim the term 'dividends' shall include any distribution with respect to such claim, in bankruptcy or receivership or in proceedings for reorganization pursuant to the Bankruptcy Act or applicable State law, whether such distribution is made in cash securities or other property, but shall not include any such distribution with respect to the secured portion, if any, of such claim. The court in which such bankruptcy, receivership, or proceeding for reorganization is pending shall have jurisdiction (i) to apportion between the indenture trustee and the indenture security holders, in accordance with the provisions of this paragraph, the funds and property held in such special account and the proceeds thereof, or (ii) in lieu of such apportionment, in whole or in part, to give to the provisions of this paragraph due consideration in determining the fairness of the distributions to be made to the indenture trustee and the indenture security holders with respect to their respective claims, in which event it shall not be necessary to liquidate or to appraise the value of any securities or other property held in such special account or as security for any such claim or to make a specific allocation of such distributions as between the secured and unsecured portions of such claims, or otherwise to apply the provisions of this paragraph as mathematical formula.

"Any indenture trustee who has resigned or been removed after the beginning of such 4 months' period shall be subject to the provisions of this subsection as though such resignation or removal had not occurred. Any indenture trustee who has resigned or been removed prior to the beginning of such 4 months' period shall be subject to the provisions of this subsection if and only if the following conditions exist—

"(i) The receipt of property or reduction of claim which would have given rise to the obligation to account, if such indenture trustee had continued as trustee, occurred after the beginning of such 4 months' period; and

"(ii) such receipt of property or reduction of claim occurred within 4 months after such resignation or removal.

"As used in this subsection, the term 'default' means any failure to make payment in full of principal or interest, when and as the same becomes due and payable, under any indenture which has been qualified under this title, and under which the indenture trustee is trustee and the person of whom the indenture trustee is directly or indirectly a creditor is an obligor; and the term 'indenture security holder' means all holders of securities outstanding under any such indenture under which any such default exists.

"(b) The indenture to be qualified may contain provisions excluding from the operation of subsection (a) of this section a creditor relationship arising from—

"(1) the ownership or acquisition of securities issued under any indenture, or any security or securities having a maturity of 1 year or more at the time of acquisition by the indenture trustee;

"(2) advances authorized by a receivership or bankruptcy court of competent jurisdiction, or by the indenture, for the purpose of preserving the property subject to the lien of the indenture or of discharging tax liens or other prior liens or encumbrances on the trust estate, if notice of such advance and of the circumstances surrounding the making thereof is given to the indenture security holders, at the time and in the manner provided in the indenture;

"(3) disbursements made in the ordinary course of business in the capacity of trustee under an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depositary, or other similar capacity;

"(4) an indebtedness created as a result of services rendered or premises rented; or an indebtedness created as a result of goods or securities sold in a cash transaction as defined in the indenture;

"(5) the ownership of stock or of other securities of a corporation organized under the provisions of section 25 (a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of an obligor upon the indenture securities; or

"(6) the acquisition, ownership, acceptance, or negotiation of any drafts, bills of exchange, acceptances, or obligations which fall within the classification of self-liquidating paper as defined in the indenture.

"(c) In the exercise by the Commission of any jurisdiction under the Public Utility Holding Company Act of 1935 regarding the issue or sale, by any registered holding company or a subsidiary company thereof, of any security of such issuer or seller or of any other company to a person which is trustee under an indenture or indentures of such issuer or seller or other company, or of a subsidiary or associate company or affiliate of such issuer or seller or other company (whether or not such indenture or indentures are qualified or to be qualified under this title), the fact that such trustee will thereby become a creditor, directly or indirectly, of any of the foregoing shall not constitute a ground for the Commission taking adverse action with respect to any application or declaration, or limiting the scope of any rule or regulation which would otherwise permit such transaction to take effect; but in any case in which such trustee is trustee under an indenture of the company of which it will thereby become a creditor, or of any subsidiary company thereof, this subsection shall not prevent the Commission from requiring (if such requirement would be authorized under the provisions of the Public Utility Holding Company Act of 1935) that such trustee, as such, shall effectively and irrevocably agree in writing, for the benefit of the holders from time to time of the securities from time to time outstanding under such indenture, to be bound by the provisions of this section, subsection (c) of section 315, and, in case of default (as such term is defined in such indenture), subsection (d) of section 315, as fully as though such provisions were included in such indenture. For the purposes of this subsection the terms 'registered holding company,' 'subsidiary company,' 'associate company,' and 'affiliate' shall have the respective meanings assigned to such terms in section 2 (a) of the Public Utility Holding Company Act of 1935.

"BONDHOLDERS' LISTS

"SEC. 312. (a) The indenture to be qualified shall contain provisions requiring each obligor upon the indenture securities to fur-

nish or cause to be furnished to the institutional trustee thereunder at stated intervals of not more than 6 months, and to such other times as such trustee may request in writing, all information in the possession or control of such obligor, or of any of its paying agents, as to the names and addresses of the indenture security holders, and requiring such trustee to preserve, in as current a form as is reasonably practicable, all such information so furnished to it or received by it in the capacity of paying agent.

"(b) The indenture to be qualified shall also contain provisions requiring that, within 5 business days after the receipt by the institutional trustee of a written application by any three or more indenture security holders stating that the applicants desire to communicate with other indenture security holders with respect to their rights under such indenture or under the indenture securities, and accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, and by reasonable proof that each such applicant has owned an indenture security for a period of at least 6 months preceding the date of such application, such institutional trustee shall, at its election, either—

"(1) afford to such applicants access to all information so furnished to or received by such trustee; or

"(2) inform such applicants as to the approximate number of indenture security holders according to the most recent information so furnished to or received by such trustee, and as to the approximate cost of mailing to such indenture security holders the form of proxy or other communication, if any, specified in such application.

If such trustee shall elect not to afford to such applicants access to such information, such trustee shall, upon the written request of such applicants, mail to all such indenture security holders copies of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to such trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of such mailing, unless within 5 days after such tender, such trustee shall mail to such applicants, and file with the Commission together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of such trustee, such mailing would be contrary to the best interests of the indenture security holders or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. After opportunity for hearing upon the objections specified in the written statement so filed, the Commission may, and if demanded by such trustee or by such applicants shall, enter an order either sustaining one or more of such objections or refusing to sustain any of them. If the Commission shall enter an order refusing to sustain any such objections, or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all objections so sustained have been met, and shall enter an order so declaring, such trustee shall mail copies of such material to all such indenture security holders with reasonable promptness after the entry of such order and the renewal of such tender.

"(c) The disclosure of any such information as to the names and addresses of the indenture security holders in accordance with the provisions of this section, regardless of the source from which such information was derived, shall not be deemed to be a violation of any existing law, or of any law hereafter enacted which does not specifically refer to this section, nor shall such trustee be held accountable by reason of mailing any material pursuant to a request made under subsection (b) of this section.

"REPORTS BY INDENTURE TRUSTEE

"SEC. 313. (a) The indenture to be qualified shall contain provisions requiring the indenture trustee to transmit to the indenture security holders as hereinafter provided, at stated intervals of not more than 12 months, a brief report with respect to—

"(1) Its eligibility and its qualifications under section 310, or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such section, a written statement to such effect;

"(2) The character and amount of any advances made by it, as indenture trustee, which remain unpaid on the date of such report, and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the indenture securities, on the trust estate or on property or funds held or collected by it as such trustee, if such advances so remaining unpaid aggregate more than one-half of 1 percent of the principal amount of the indenture securities outstanding on such date;

"(3) The amount, interest rate, and maturity date of all other indebtedness owing to it in its individual capacity, on the date of such report, by the obligor upon the indenture securities, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in paragraphs (2), (3), (4), or (6) of subsection (b) of section 311;

"(4) The property and funds physically in its possession as indenture trustee on the date of such report;

"(5) Any release, or release and substitution, of property subject to the lien of the indenture (and the consideration therefor, if any) which it has not previously reported;

"(6) Any additional issue of indenture securities which it has not previously reported; and

"(7) Any action taken by it in the performance of its duties under the indenture which it has not previously reported and which in its opinion materially affects the indenture securities or the trust estate, except action in respect of a default, notice of which has been or is to be withheld by it in accordance with an indenture provision authorized by subsection (b) of section 315.

"(b) The indenture to be qualified shall also contain provisions requiring the indenture trustee to transmit to the indenture security holders as hereinafter provided, within the times hereinafter specified, a brief report with respect to—

"(1) The release, or release and substitution, of property subject to the lien of the indenture (and the consideration therefor, if any) unless the fair value of such property, as set forth in the certificate or opinion required by paragraph (1) of subsection (d) of section 314, is less than 10 percent of the principal amount of indenture securities outstanding at the time of such release, or such release and substitution, such report to be so transmitted within 90 days after such time; and

"(2) The character and amount of any advances made by it as such since the date of the last report transmitted pursuant to the provisions of subsection (a) (or if no such report has yet been so transmitted, since the date of execution of the indenture), for the reimbursement of which it claims or may claim a lien or charge, prior to that of the indenture securities, on the trust estate or on property or funds held or collected by it as such trustee, and which it has not previously reported pursuant to this paragraph, if such advances remaining unpaid at any time aggregate more than 10 percent of the principal amount of indenture securities outstanding at such time, such report to be so transmitted within 90 days after such time.

"(c) The indenture to be qualified shall also provide that reports pursuant to this section shall be transmitted by mail—

"(1) To all registered holders of indenture securities, as the names and addresses of such holders appear upon the registration books of the obligor upon the indenture securities;

"(2) To such holders of indenture securities as have, within the 2 years preceding such transmission, filed their names and addresses with the indenture trustee for that purpose; and

"(3) Except in the case of reports pursuant to subsection (b) of this section, to all holders of indenture securities whose names and addresses have been furnished to or received by the indenture trustee pursuant to section 312.

"(d) The indenture to be qualified shall also provide that a copy of each such report shall, at the time of such transmission to indenture security holders, be filed with each stock exchange upon which the indenture securities are listed, and also with the Commission.

"REPORTS BY OBLIGOR; EVIDENCE OF COMPLIANCE WITH INDENTURE PROVISIONS

"Periodic Reports

"SEC. 314. (a) The indenture to be qualified shall contain provisions requiring each person who, as set forth in the registration statement or application, is or is to be an obligor upon the indenture securities covered thereby—

"(1) To file with the indenture trustee copies of the annual reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) which such obligor is required to file with the Commission pursuant to section 13 or section 15 (d) of the Securities Exchange Act of 1934; or, if the obligor is not required to file information, documents, or reports pursuant to either of such sections, then to file with the indenture trustee and the Commission, in accordance with rules and regulations prescribed by the Commission, such of the supplementary and periodic information, documents, and reports which may be required pursuant to section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed in such rules and regulations;

"(2) To file with the indenture trustee and the Commission, in accordance with rules and regulations prescribed by the Commission, such additional information, documents, and reports with respect to compliance by such obligor with the conditions and covenants provided for in the indenture, as may be required by such rules and regulations, including, in the case of annual reports, if required by such rules and regulations, certificates or opinions of independent public accountants, conforming to the requirements of subsection (e) of this section, as to compliance with conditions or covenants, compliance with which is subject to verification by accountants, but no such certificate or opinion shall be required as to any matter specified in clauses (A), (B), or (C) of paragraph (3) of subsection (c); and

"(3) To transmit to the holders of the indenture securities upon which such person is an obligor, in the manner and to the extent provided in subsection (c) of section 313, such summaries of any information, documents, and reports required to be filed by such obligor pursuant to the provisions of paragraph (1) or (2) of this subsection as may be required by rules and regulations prescribed by the Commission.

The rules and regulations prescribed under this subsection shall be such as are necessary or appropriate in the public interest or for the protection of investors, having due regard to the types of indentures, and the nature of the business of the class of obligors affected thereby, and the amount of indenture securities outstanding under such indentures, and, in the case of any such rules and regulations prescribed after the indentures to which they apply have been qualified under this title, the additional expense, if any, of complying with such rules and regulations. Such rules and regulations may be prescribed either before or after qualification becomes effective as to any such indenture.

"Evidence of Recording of Indenture

"(b) If the indenture to be qualified is or is to be secured by the mortgage or pledge of property, such indenture shall contain provisions requiring the obligor upon the indenture securities to furnish to the indenture trustee—

"(1) promptly after the execution and delivery of the indenture, an opinion of counsel (who may be of counsel for such obligor) either stating that in the opinion of such counsel the indenture has been properly recorded and filed so as to make effective the lien intended to be created thereby, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to make such lien effective; and

"(2) at least annually after the execution and delivery of the indenture, an opinion of counsel (who may be of counsel for such obligor) either stating that in the opinion of such counsel such action has been taken with respect to the recording, filing, rerecording, and refiling of the indenture as is necessary to maintain the lien of such indenture, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to maintain such lien.

"Evidence of Compliance With Conditions Precedent

"(c) The indenture to be qualified shall contain provisions requiring the obligor upon the indenture securities to furnish to the indenture trustee evidence of compliance with the conditions precedent, if any, provided for in the indenture (including any covenants compliance with which constitute a condition precedent) which relate to the authentication and delivery of the indenture securities, to the release or the release and substitution of property subject to the lien of the indenture, to the satisfaction and discharge of the indenture, or to any other action to be taken by the indenture trustee at the request or upon the application of such obligor. Such evidence shall consist of the following:

"(1) certificates or opinions made by officers of such obligor who are specified in the indenture, stating that such conditions precedent have been complied with;

"(2) an opinion of counsel (who may be of counsel for such obligor) stating that in his opinion such conditions precedent have been complied with; and

"(3) in the case of conditions precedent compliance with which is subject to verification by accountants (such as conditions with respect to the preservation of specified ratios, the amount of net quick assets, negative-pledge clauses, and other similar specific conditions), a certificate or opinion of an accountant, who, in the case of any such conditions precedent to the authentication and delivery of indenture securities, and not otherwise, shall be an independent public accountant selected or approved by the indenture trustee in the exercise of reasonable care, if the aggregate principal amount of such indenture securities and of other indenture securities authenticated and delivered since the commencement of the then current calendar year (other than those with respect to which a certificate or opinion of an accountant is not required, or with respect to which a certificate or opinion of an independent public accountant has previously been furnished) is 10 percent or more of the aggregate amount of the indenture securities at the time outstanding; but no certificate or opinion need be made by any person other than an officer or employee of such obligor who is specified in the indenture, as to (A) dates or periods not covered by annual reports required to be filed by the obligor, in the case of conditions precedent which depend upon a state of facts as of a date or dates or for a period or periods different from that required to be covered by such annual reports, or (B) the amount and value of property additions, except as provided in paragraph (3) of subsection (d), or (C) the adequacy of depreciation, maintenance, or repairs.

"Certificates of Fair Value

"(d) If the indenture to be qualified is or is to be secured by the mortgage or pledge of property or securities, such indenture shall contain provisions—

"(1) requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value of any property or securities to be released from the lien of the indenture, which certificate or opinion shall state that in the opinion of the person making the same the proposed release will not impair the security under such indenture in contravention of the provisions thereof, and requiring further that such certificate or opinion shall be made by an independent engineer, appraiser, or other expert, if the fair value of such property or securities and of all other property or securities released since the commencement of the then current calendar year, as set forth in the certificates or opinions required by this paragraph, is 10 percent or more of the aggregate principal amount of the indenture securities at the time outstanding; but such a certificate or opinion of an independent engineer, appraiser, or other expert shall not be required in the case of any release of property or securities, if the fair value thereof as set forth in the certificate or opinion required by this paragraph is less than $25,000 or less than 1 percent of the aggregate principal amount of the indenture securities at the time outstanding;

"(2) requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value to such obligor of any securities (other than indenture securities and securities secured by a lien prior to the lien of the indenture upon property subject to the lien of the indenture), the deposit of which with the trustee is to be made the basis for the authentication and delivery of indenture securities, the withdrawal of cash constituting a part of the trust estate or the release of property or securities subject to the lien of the indenture, and requiring further that if the fair value to such obligor of such securities and of all other such securities made the basis of any such authentication and delivery, withdrawal, or release since the commencement of the then current calendar year, as set forth in the certificates or opinions required by this paragraph, is 10 percent or more of the aggregate principal amount of the indenture securities at the time outstanding, such certificate or opinion shall be made by an independent engineer, appraiser, or other expert and, in the case of the authentication and delivery of indenture securities, shall cover the fair value to such obligor of all other such securities so deposited since the commencement of the current calendar year as to which a certificate or opinion of an independent engineer, appraiser, or other expert has not previously been furnished; but such a certificate of an independent engineer, appraiser, or other expert shall not be required with respect to any securities so deposited, if the fair value thereof to such obligor as set forth in the certificate or opinion required by this paragraph is less than $25,000 or less than 1 percent of the aggregate principal amount of the indenture securities at the time outstanding; and

"(3) requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value to such obligor of any property the subjection of which to the lien of the indenture is to be made the basis for the authentication and delivery of indenture securities, the withdrawal of cash constituting a part of the trust estate, or the release of property or securities subject to the lien of the indenture, and requiring further that if

"(A) within 6 months prior to the date of acquisition thereof by such obligor, such property has been used or operated, by a person or persons other than such obligor, in a business similar to that in which it has been or is to be used or operated by such obligor, and

"(B) the fair value to such obligor of such property as set forth in such certificate or opinion is not less than $25,000 and not less than 1 percent of the aggregate principal amount of the indenture securities at the time outstanding."

such certificate or opinion shall be made by an independent engineer, appraiser, or other expert and, in the case of the authentication and delivery of indenture securities, shall cover the fair value to the obligor of any property so used or operated which has been so subjected to the lien of the indenture since the commencement of the then current calendar year, and as to which a certificate or opinion of an independent engineer, appraiser, or other expert has not previously been furnished.

If the indenture to be qualified so provides, any such certificate or opinion may be made by an officer or employee of the obligor upon the indenture securities who is specified in the indenture, except in cases in which this subsection requires that such certificate or opinion be made by an independent person. In such cases, such certificate or opinion shall be made by an independent engineer, appraiser, or other expert selected or approved by the indenture trustee in the exercise of reasonable care.

"Recitals as to Basis of Certificate or Opinion

"(e) Each certificate or opinion with respect to compliance with a condition or covenant provided for in the indenture shall include (1) a statement that the person making such certificate or opinion has read such covenant or condition; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (3) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

"Parties May Provide for Additional Evidence

"(f) Nothing in this section shall be construed either as requiring the inclusion in the indenture to be qualified of provisions that the obligor upon the indenture securities shall furnish to the indenture trustee any other evidence of compliance with the conditions and covenants provided for in the indenture than the evidence specified in this section, or as preventing the inclusion of such provisions in such indenture, if the parties so agree.

"DUTIES AND RESPONSIBILITY OF THE TRUSTEE

"Duties Prior to Default

"SEC. 315. (a) The indenture to be qualified may provide that, prior to default (as such term is defined in such indenture)—

"(1) the indenture trustee shall not be liable except for the performance of such duties as are specifically set out in such indenture; and

"(2) the indenture trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, in the absence of bad faith on the part of such trustee, upon certificates or opinions conforming to the requirements of the indenture;"

but such indenture shall contain provisions requiring the indenture trustee to examine the evidence furnished to it pursuant to section 314 to determine whether or not such evidence conforms to the requirements of the indenture.

"Notice of Defaults

"(b) The indenture to be qualified shall contain provisions requiring the indenture trustee to give to the indenture security holders, in the manner and to the extent provided in subsection

(c) of section 313, notice of all defaults known to the trustee, within 90 days after the occurrence thereof: *Provided*, That such indenture may provide that, except in the case of default in the payment of the principal of or interest on any indenture security, or in the payment of any sinking or purchase fund installment, the trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors and/or responsible officers, of the trustee in good faith determine that the withholding of such notice is in the interests of the indenture security holders.

"Duties of the Trustee in Case of Default

"(c) The indenture to be qualified shall contain provisions requiring the indenture trustee to exercise in case of default (as such term is defined in such indenture) such of the rights and powers vested in it by such indenture, and to use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

"Responsibility of the Trustee

"(d) The indenture to be qualified shall not contain any provisions relieving the indenture trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that—

"(1) such indenture may contain the provisions authorized by paragraphs (1) and (2) of subsection (a) of this section;

"(2) such indenture may contain provisions protecting the indenture trustee from liability for any error of judgment made in good faith by a responsible officer or officers of such trustee, unless it shall be proved that such trustee was negligent in ascertaining the pertinent facts; and

"(3) such indenture may contain provisions protecting the indenture trustee with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the indenture securities at the time outstanding (determined as provided in subsection (a) of section 316) relating to the time, method, and place of conducting any proceeding for any remedy available to such trustee, or exercising any trust or power conferred upon such trustee, under such indenture.

"Undertaking for Costs

"(e) The indenture to be qualified may contain provisions to the effect that all parties thereto, including the indenture security holders, agree that the court may in its discretion require, in any suit for the enforcement of any right or remedy under such indenture, or in any suit against the trustee for any action taken or omitted by it as trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant: *Provided*, That the provisions of this subsection shall not apply to any suit instituted by such trustee, to any suit instituted by any indenture security holder, or group of indenture security holders, holding in the aggregate more than 10 percent in principal amount of the indenture securities outstanding or to any suit instituted by any indenture security holder for the enforcement of the payment of the principal of or interest on any indenture security on or after the respective due dates expressed in such indenture security.

"DIRECTIONS AND WAIVERS BY BONDHOLDERS; PROHIBITION OF IMPAIRMENT OF HOLDER'S RIGHT TO PAYMENT

"SEC. 316. (a) The indenture to be qualified may contain provisions—

"(1) authorizing the holders of not less than a majority in principal amount of the indenture securities at the time outstanding (A) to direct the time, method, and place of conducting any proceeding for any remedy available to such trustee or exercising any trust or power conferred upon such trustee under such indenture or (B) on behalf of the holders of all such indenture securities to consent to the waiver of any past default and its consequences; or

"(2) authorizing the holders of not less than 75 percent in principal amount of the indenture securities at the time outstanding to consent on behalf of the holders of all such indenture securities to the postponement of any interest payment for a period not exceeding 3 years from its due date."

For the purposes of this subsection and paragraph (3) of subsection (d) of section 315, in determining whether the holders of the required principal amount of indenture securities have concurred in any such direction or consent, indenture securities owned by any obligor upon the indenture securities, or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with any such obligor, shall be disregarded, except that for the purposes of determining whether the indenture trustee shall be protected in relying on any such direction or consent, only indenture securities which such trustee knows are so owned shall be so disregarded.

"(b) The indenture to be qualified shall provide that, notwithstanding any other provision thereof, the right of any holder of any indenture security to receive payment of the principal of and interest on such indenture security, on or after the respective due dates expressed in such indenture security, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder, except as to a postponement of an interest payment consented to as provided in paragraph (2) of subsection (a), and except that such indenture may contain provisions limiting or denying the right of any such holder to institute any such suit, if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver, or loss of the lien of such indenture upon any property subject to such lien.

"SPECIAL POWERS OF TRUSTEE; DUTIES OF PAYING AGENTS

"SEC. 317. (a) The indenture to be qualified shall contain provisions—

"(1) authorizing the indenture trustee, in the case of a default in payment of the principal of any indenture security, when and as the same shall become due and payable, or in the case of a default in payment of the interest on any such security, when and as the same shall become due and payable and the continuance of such default for such period as may be prescribed in such indenture, to recover judgment, in its own name and as trustee of an express trust, against the obligor upon the indenture securities for the whole amount of such principal and interest remaining unpaid; and

"(2) Authorizing such trustee to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of such trustee and of the indenture security holders allowed in any judicial proceedings relative to the obligor upon the indenture securities, its creditors, or its property.

"(b) The indenture to be qualified shall provide that each paying agent shall hold in trust for the benefit of the indenture security holders or the indenture trustee all sums held by such paying agent for the payment of the principal of or interest on the indenture securities, and shall give to such trustee notice of any default by any obligor upon the indenture securities in the making of any such payment.

"EFFECT OF PRESCRIBED INDENTURE PROVISIONS

"SEC. 318. (a) The indenture to be qualified shall provide that if any provision thereof limits, qualifies, or conflicts with another provision which is required to be included in such indenture by any of sections 310 to 317, inclusive, such required provision shall control.

"(b) The indenture to be qualified may contain, in addition to provisions specifically authorized under this title to be included therein, any other provisions the inclusion of which is not in contravention of any provision of this title.

"RULES, REGULATIONS, AND ORDERS

"SEC. 319. (a) The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as it may deem necessary or appropriate in the public interest or for the protection of investors to carry out the provisions of this title, including rules and regulations defining accounting, technical, and trade terms used in this title. Among other things, the Commission shall have authority, (1) by rules and regulations, to prescribe for the purposes of section 310 (b) the method (to be fixed in indentures to be qualified under this title) of calculating percentages of voting securities and other securities; (2) by rules and regulations, to prescribe the definitions of the terms 'cash transaction' and 'self-liquidating paper' which shall be included in indentures to be qualified under this title, which definitions shall include such of the creditor relationships referred to in paragraphs (4) and (6) of subsection (b) of section 311 as to which the Commission determines that the application of subsection (a) of such section is not necessary in the public interest or for the protection of investors, having due regard for the purposes of such subsection; and (3) for the purposes of this title, to prescribe the form or forms in which information required in any statement, application, report, or other document filed with the Commission shall be set forth. For the purpose of its rules or regulations the Commission may classify persons, securities, indentures, and other matters within its jurisdiction and prescribe different requirements for different classes of persons, securities, indentures, or matters.

"(b) Subject to the provisions of the Federal Register Act and regulations prescribed under the authority thereof, the rules and regulations of the Commission under this title shall be effective upon publication in the manner which the Commission shall prescribe, or upon such later date as may be provided in such rules and regulations.

"(c) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order of the Commission, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

"HEARINGS BY COMMISSION

"SEC. 320. Hearings may be public and may be held before the Commission, any member or members thereof, or any officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

"SPECIAL POWERS OF THE COMMISSION

"SEC. 321. (a) For the purpose of any investigation or any other proceeding which, in the opinion of the Commission, is necessary and proper for the enforcement of this title, any member of the Commission, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of

any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such books, papers, correspondence, memoranda, contracts, agreements, or other records may be required from any place in the United States or in any Territory at any designated place of investigation or hearing. In addition, the Commission shall have the powers with respect to investigations and hearings, and with respect to the enforcement of, and offenses and violations under, this title and rules and regulations and orders prescribed under the authority thereof, provided in sections 20, 22 (b), and 22 (c) of the Securities Act of 1933.

"(b) The Treasury Department, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Reserve banks, and the Federal Deposit Insurance Corporation are hereby authorized, under such conditions as they may prescribe, to make available to the Commission such reports, records, or other information as they may have available with respect to trustees or prospective trustees under indentures qualified or to be qualified under this title, and to make through their examiners or other employees, for the use of the Commission, examinations of such trustees or prospective trustees. Every such trustee or prospective trustee shall, as a condition precedent to qualification of such indenture, consent that reports of examinations by Federal, State, Territorial, or District authorities may be furnished by such authorities to the Commission upon request therefor.

"Notwithstanding any provision of this title, no report, record, or other information made available to the Commission under this subsection, no report of an examination made under this subsection for the use of the Commission, no report of an examination made of any trustee or prospective trustee by any Federal, State, Territorial, or District authority having jurisdiction to examine or supervise such trustee, no report made by any such trustee or prospective trustee to any such authority, and no correspondence between any such authority and any such trustee or prospective trustee, shall be divulged or made known or available by the Commission or any member, officer, agent, or employee thereof, to any person other than a member, officer, agent, or employee of the Commission: *Provided*, That the Commission may make available to the Attorney General of the United States, in confidence, any information obtained from such records, reports of examination, other reports, or correspondence, and deemed necessary by the Commission, or requested by him, for the purpose of enabling him to perform his duties under this title.

"(c) Any investigation of a prospective trustee, or any proceeding or requirement for the purpose of obtaining information regarding a prospective trustee, under any provision of this title, shall be limited—

"(1) to determining whether such prospective trustee is qualified to act as trustee under the provisions of subsection (b) of section 310;

"(2) to requiring the inclusion in the registration statement or application of information with respect to the eligibility of such prospective trustee under paragraph (1) of subsection (a) of such section 310; and

"(3) to requiring the inclusion in the registration statement or application of the most recent published report of condition of such prospective trustee, as described in paragraph (2) of such subsection (a), or, if the indenture does not contain the provision with respect to combined capital and surplus authorized by the last sentence of paragraph (2) of subsection (a) of such section 310, to determining whether such prospective trustee is eligible to act as such under such paragraph (2).

"(d) The provisions of section 4 (b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission to appoint and fix the compensation of such officers, attorneys, examiners, and other experts, and such other officers and employees, as may be necessary for carrying out its functions under this title.

"COURT REVIEW OF ORDERS; JURISDICTION OF OFFENSES AND SUITS

"SEC. 322. (a) Orders of the Commission under this title (including orders pursuant to the provisions of sections 305 (b) and 307 (c)) shall be subject to review in the same manner, upon the same conditions, and to the same extent, as provided in section 9 of the Securities Act of 1933, with respect to orders of the Commission under such act.

"(b) Jurisdiction of offenses and violations under, and jurisdiction and venue of suits and actions brought to enforce any liability created by, this title, or any rules or regulations or orders prescribed under the authority thereof, shall be as provided in section 22 (a) of the Securities Act of 1933.

"LIABILITY FOR MISLEADING STATEMENTS

"SEC. 323. (a) Any person who shall make or cause to be made any statement in any application, report, or document filed with the Commission pursuant to any provisions of this title, or any rule, regulation, or order thereunder, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or who shall omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall be liable to any person (not knowing that such statement was false or misleading or of such omission) who, in reliance upon such statement or omission, shall have purchased or sold a security issued under the indenture to which such application, report, or document relates, for damages caused by such reliance, unless the person sued shall prove that he acted in good faith and had no knowledge that such statement was false or misleading or of such omission. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit and assess reasonable costs, including reasonable attorneys' fees, against either party litigant, having due regard to the merits and good faith of the suit or defense. No action shall be maintained to enforce any liability created under this section unless brought within 1 year after the discovery of the facts constituting the cause of action and within 3 years after such cause of action accrued.

"(b) The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist under the Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935, or otherwise at law or in equity; but no person permitted to maintain a suit for damages under the provisions of this title shall recover, through satisfaction of judgment in one or more actions, a total amount in excess of his actual damages on account of the act complained of.

"UNLAWFUL REPRESENTATIONS

"SEC. 324. It shall be unlawful for any person in issuing or selling any security to represent or imply in any manner whatsoever that any action or failure to act by the Commission in the administration of this title means that the Commission has in any way passed upon the merits of, or given approval to, any trustee, indenture or security, or any transaction or transactions therein, or that any such action or failure to act with regard to any statement or report filed with or examined by the Commission pursuant to this title or any rule, regulation, or order thereunder, has the effect of a finding by the Commission that such statement or report is true and accurate on its face or that it is not false or misleading.

"PENALTIES

"SEC. 325. Any person who willfully violates any provision of this title or any rule, regulation, or order thereunder, or any person who willfully, in any application, report, or document filed or required to be filed under the provisions of this title or any rule, regulation, or order thereunder, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both.

"EFFECT ON EXISTING LAW

"SEC. 326. Except as otherwise expressly provided, nothing in this title shall affect (1) the jurisdiction of the Commission under the Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935, over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person or security, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder.

"CONTRARY STIPULATIONS VOID

"SEC. 327. Any condition, stipulation, or provision binding any person to waive compliance with any provision of this title or with any rule, regulation, or order thereunder shall be void.

"SEPARABILITY OF PROVISIONS

"SEC. 328. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby."

Mr. BARKLEY. Mr. President, the changes made by the House amendment are more or less of a technical, clerical, and clarifying nature. I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky.

The motion was agreed to.

ONE HUNDRED AND TWENTY-FIFTH ANNIVERSARY OF WRITING OF THE STAR-SPANGLED BANNER

Mr. BARKLEY. From the Committee on the Library, I report back favorably Senate Joint Resolution 176 and ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The joint resolution will be read by title.

The CHIEF CLERK. Joint resolution (S. J. Res. 176) providing for participation by the United States in the celebration to be held at Fort McHenry on September 14, 1939, in celebration of the one hundred and twenty-fifth anniversary of the writing of The Star-Spangled Banner.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Resolved, etc.*, That, for the purpose of providing for participation by the United States in the celebration of the one hundred and twenty-fifth anniversary of the writing of The Star-Spangled Banner, there is hereby established a commission to be composed of the President of the Senate, the Speaker of the House of Representatives, the United States Senators from the State of Maryland, three Senators to be appointed by the President of the Senate, the Members of the House of Representatives from the State of Maryland, three Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, the Governor of Maryland, the mayor of the city of Baltimore, and three persons to be appointed by the President of the United States. It shall be the duty of such commission to formulate and carry out plans for participation by the United States in the celebration to be held at Fort McHenry on September 14, 1939, in commemoration of such anniversary. The members of such commission shall serve without compensation and shall select a chairman from among their number.

SEC. 2. The commission is authorized to make such expenditures for the purpose of carrying out the provisions of the first section of this joint resolution as it may deem advisable. Expenditures of the commission shall be paid upon the presentation of vouchers approved by the chairman of the commission.

SEC. 3. There is hereby authorized to be appropriated the sum of $5,000 to be expended by the commission for the purpose of carrying out the provisions of the first section of this joint resolution.

SEC. 4. The President is authorized to extend invitations to foreign governments to be represented by their accredited diplomatic agents at the celebration to be held at Fort McHenry on September 14, 1939, in commemoration of the one hundred and twenty-fifth anniversary of the writing of The Star-Spangled Banner: *Provided*, That no appropriation shall be granted by the United States for expenses of delegates or for other expenses incurred in connection with such invitation.

AUTHORITY TO COMMITTEES TO REPORT BILLS, ETC.

Mr. BARKLEY. I ask unanimous consent that during the recess of the Senate following today's session committees may have authority to make reports on bills, resolutions, and nominations; that the Vice President may be authorized to sign bills ready for his signature; and that the Secretary of the Senate may be authorized to receive messages from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. ANDREWS in the chair) laid before the Senate messages from the President of the United States submitting several nominations of United States attorneys, which were referred to the Committee on the Judiciary.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. LOGAN, from the Committee on the Judiciary, reported favorably the nomination of Walter Bragg Smith, of Alabama, to be United States marshal for the middle district of Alabama.

Mr. WALSH, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers for promotion, and citizens for appointment as officers, in the Marine Corps.

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of sundry officers for appointment or promotion in the Regular Army as follows: Reserve officers for appointment as first lieutenants in the Medical Corps, first lieutenants of the Dental Corps Reserve to be first lieutenants in the Dental Corps, and several officers to temporary rank in the Air Corps, under the provisions of law.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

CONSIDERATION OF PANAMA TREATY

Mr. BARKLEY. Mr. President, I wish to say for the information of the Senate that there are on the calendar many treaties, some of which will require some little discussion, but most of them are formal. The treaty with Panama may take 30 minutes or an hour, and we have an understanding that we will take that treaty up at 4 o'clock on Monday in order to accommodate the Senator from California [Mr. JOHNSON]. Some day next week I hope we may devote sufficient time to the treaties so that all of them may be disposed of before we adjourn.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will state the nomination on the Executive Calendar.

THE JUDICIARY

The legislative clerk read the nomination of Frederick V. Follmer to be United States attorney for the middle district of Pennsylvania.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS—NOMINATIONS REJECTED

The legislative clerk read the nomination of John J. Welch to be postmaster at Deerfield, Ill.

Mr. AUSTIN. Mr. President, I notice that the first two nominations of postmasters on the calendar have been adversely reported.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of John J. Welch?

The nomination was rejected.

The legislative clerk read the nomination of Raymond A. Kennedy to be postmaster at Libertyville, Ill.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to this nomination?

The nomination was rejected.

POSTMASTERS—NOMINATIONS CONFIRMED

The legislative clerk proceeded to read sundry nominations of postmasters.

The PRESIDING OFFICER. Without objection, the other nominations of postmasters are confirmed en bloc.

TREATIES

Mr. PITTMAN. Mr. President, there are a number of treaties on the calendar which have been on the calendar for some time. The Committee on Foreign Relations have been very patient in seeking an executive session to have these matters considered, but they have gone over because there has been before the Senate important legislation which required action of both Houses, and the treaties require action by the Senate only.

The majority leader, the Senator from Kentucky [Mr. BARKLEY], has already announced that at 4 o'clock Monday the Senate will go into executive session and take up, first, the Panama treaty and convention. We have postponed consideration of that from yesterday and from today out of courtesy to one of the Senators, but I must insist, so far as I am able to do so, that the Senate dispose of the treaties as rapidly as possible, and particularly the general Panama treaty and convention.

The Panama treaty has been pending in the Committee on Foreign Relations for 3 years. We have had numerous hearings on it, and at last all of the controversial questions, in my opinion, have been satisfactorily settled by correspondence between the Governments of the United States and Panama. The committee was unanimously favorable to the treaty, with the exception of one vote. Last year a very able subcommittee, composed of the Senator from Georgia [Mr. GEORGE], the Senator from Utah [Mr. THOMAS], the Senator from Idaho [Mr. BORAH], the Senator from Michigan [Mr. VANDENBERG], and the Senator from New Mexico [Mr. CHAVEZ], reported favorably upon the treaty.

I must insist that we finish the consideration of that treaty before final adjournment.

Mr. McNARY. Mr. President, I am interested in the copyright treaty, which I think has been referred to the able Senator from Utah [Mr. THOMAS]. I do not care to have that treaty taken up immediately, but I desire to confer with the Senator from Utah prior to its consideration.

Mr. PITTMAN. A different situation exists with regard to that treaty. The treaty was reported to the Senate at the session of Congress before the last one, and was ratified by the Senate. Then former Senator Ryan Duffy, of Wisconsin, who had charge of the treaty, came in and stated there was an understanding with certain groups who were then opposed to the treaty that they were entitled to domestic legislation at the same time the treaty was ratified. They have since agreed on the domestic legislation they desire. The Committee on Education and Labor has considered it and reported it to the Senate. Therefore, the agreement has been kept with regard to the legislation. The various groups which have opposed the treaty have been against it on the ground that they could not agree on the domestic legislation. I think the treaty should be considered.

Mr. McNARY. Mr. President, is it the view of the Senator that we should consider the treaty at this time?

Mr. PITTMAN. I think we should.

Mr. McNARY. I will meet that issue when it comes before us.

Mr. PITTMAN. There are several radio treaties on the calendar which I think are of great importance to the United States. One is the treaty of Cairo, which is in charge of the Senator from Maine [Mr. WHITE]. There is another radio treaty, one between the United States and countries of Central America, which is of vast importance. And there is still another radio treaty on the calendar.

The only member of the Foreign Relations Committee who thoroughly understands this subject, if I may be so bold as to so state, is the Senator from Maine [Mr. WHITE], who has attended the conventions, and who is prepared to take up the three treaties. I hope we may reach those also on Monday.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. WHITE. There are two communications treaties, to which the Senator from Nevada has referred, with which I am generally familiar. They are of great interest to our State Department and to other departments of our Government, and to the communications interests of the United States, and, so far as my knowledge goes, no interest in the United States and no individual in the United States has ever voiced opposition of any sort or character to the treaties. I wonder whether those treaties, to which there is no objection, might not be disposed of at this time. If they should provoke discussion, probably they should go over, but if there is no disposition to oppose them in any respect, I wonder whether they could not be disposed of. I have particular reference to Calendar No. 3 and Calendar No. 17.

Mr. PITTMAN. Is there objection to the consideration of the two treaties at the present time?

Mr. BRIDGES. What are the two treaties?

Mr. WHITE. Calendar No. 3 is the treaty which was signed at Cairo last year and which revises the rules with respect to international radio communication. As I have stated, it has the sanction of every department of the Government of the United States; I think it has the approval of all the communications interests of the United States, and so far as my knowledge goes, and in saying this I am merely repeating, not a person or interest in the United States has ever voiced opposition to it or to any provision of it.

REVISION OF GENERAL RADIO REGULATIONS

The PRESIDING OFFICER. Is there objection to the consideration of the first treaty referred to by the Senator from Maine?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive B (76th Cong., 1st sess.), the revision of the general radio regulations annexed to the International Telecommunications Convention, signed at Madrid on December 9, 1932, adopted on April 8, 1938, by the International Telecommunication Conferences which convened at Cairo, Egypt, on February 1, 1938, to revise these regulations, the additional radio regulations and the telephone and telegraph regulations also annexed to the Madrid Convention, and a certified copy of the final protocol, with the reservations made by certain governments, which was read the second time.

The PRESIDING OFFICER. The revision is before the Senate and open to amendment. If there be no amendment to be proposed, the revision will be reported to the Senate.

The revision was reported to the Senate without amendment.

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). The resolution of ratification will be read.

The legislative clerk read as follows:

*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of Executive B, Seventy-sixth Congress, first session, a revision of the General Radio Regulations annexed to the International Telecommunications Convention, signed at Madrid on December 9, 1932, adopted on April 8, 1938, by the International Telecommunication Conferences which convened at Cairo, Egypt, on February 1, 1938, to revise these regulations, the additional radio regulations and the telephone and telegraph regulations also annexed to the Madrid Convention, and the final protocol, with the reservations made by certain governments.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification. (Putting the question.) Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the revision is ratified.

REGIONAL RADIO CONVENTION BETWEEN THE UNITED STATES, PANAMA, AND COUNTRIES OF CENTRAL AMERICA

Mr. WHITE. Mr. President, with the approval of the chairman of the Committee on Foreign Relations, I suggest that we dispose also of Calendar No. 17.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the convention, Executive J (76th Cong., 1st sess.), a regional radio convention for Central America, Panama, and the Canal Zone, signed at the Regional Radio Conference for Central America, Panama, and the Canal Zone, at Guatemala City on December 8, 1938, which was read the second time, as follows:

REGIONAL RADIO CONVENTION FOR CENTRAL AMERICA, PANAMA AND THE CANAL ZONE, SIGNED IN THE CITY OF GUATEMALA, DECEMBER EIGHTH, ONE THOUSAND NINE HUNDRED AND THIRTY-EIGHT

The undersigned, representatives of the Governments of Costa Rica, El Salvador, The United States of America in behalf of the Canal Zone, Guatemala, Honduras, Nicaragua and Panamá, after examination of their credentials, which were found to be in correct and proper form, constitute the Regional Radio Conference of Central America, Panamá and the Canal Zone, as follows:

For the Republic of Costa Rica:
His Excellency Rafael Castro Quezada;
For the Republic of El Salvador:
Messrs. J. Federico Mejía, and Fidel Villacorta;
For the United States of America:
His Excellency Fay Allen Des Portes;
Mr. Harvey B. Otterman;
Lt.-Col. David M. Crawford, U. S. A.;
Lt.-Cmdr. M. W. Arps, U. S. N.;
Messrs. Gerald C. Gross, and Walter H. McKinney;
For the Republic of Guatemala:
Messrs. Luis Schlesinger Carrera;
Arturo Peralta;
Jorge F. Sánchez;
Ramiro Fernández;
J. B. McElroy;
Walter C. Bay;
For the Republic of Honduras:
His Excellency Luciano Milla Cisneros;
For the Republic of Nicaragua:
His Excellency Hildebrando Castellón;
Mr. H. J. Phillips, Jr.;
For the Republic of Panamá:
The Honorable Teodoro Rudeke;

who by common consent, and subject to the ratification of the respective Governments, have concluded in the City of Guatemala, this eighth day of December, one thousand, nine hundred and thirty-eight, the following Convention, in accordance with the pro-

visions of Article 7, Paragraph 8, Section 1, Sub-section 3, Division b) and c) of the General Radio Regulations of Cairo, 1938, annexed to the International Telecommunications Convention of Madrid, 1932:

PART ONE

*Allocations*

In view of the special requirements of the several states of Central America, Panamá and the Canal Zone with respect to broadcasting, there is established, in the radio frequency band of 2300 kc. to 2400 kc. the following allocation table:

| Administrations | Frequencies in kilocycles | |
|---|---|---|
| | Primary | Secondary |
| Costa Rica | 2330 | 2370 |
| El Salvador | 2300 | 2360 |
| Guatemala | 2320 | 2400 |
| Honduras | 2380 | 2340 |
| Nicaragua | 2350 | 2400 |
| Panama | 2310 | 2340 |
| The Canal Zone | 2390 | 2370 |

PART TWO

*Engineering Principles*

The following basic engineering principles have been adopted in order to arrive at the allocations above specified:

a) The primary frequency assignments to contiguous administrations must be at least twenty (20) kilocycles apart;

b) The primary and secondary assignments to the same administration must be at least twenty (20) kilocycles apart;

c) The secondary assignments to contiguous administrations should be separated by at least twenty (20) kilocycles, but when necessary secondary assignments to contiguous countries may be only ten (10) kilocycles apart;

d) All broadcast frequency assignments shall end in zero;

e) The power of primary stations and the types of the antennae must bo so chosen as to comply with the provisions of Article 7, paragraph 8, Section I, Subsection 3, division b) of the General Radio Regulations of Cairo, 1938.

The power of secondary stations is limited to two hundred and fifty (250) watts;

f) All broadcasting stations must comply with the requirements for broadcasting stations as contained in the tolerance table in Appendix I of the General Radio Regulations of Cairo, 1938;

g) Frequencies ending in zero and not assigned as primary frequencies may also be used for tertiary broadcasting on a non-interfering basis. Such use must be modified or discontinued immediately upon notice of interference from the government having priority on the frequency concerned.

PART THREE

*Legal Principles*

The distribution contained in this Convention is based on the following legal principles:

a) The participating governments consider that this convention has the character of a regional agreement;

b) The governments agree that the band 2300 to 2350 kilocycles is assigned exclusively for broadcasting in Central America and Panamá, subject to no interference by any other services in this region.

In this connection, it is agreed that, in time of peace, the military services of land, maritime, or air forces of the United States of America operating in the vicinity of the Panamá Canal Zone will not interfere on channels assigned for broadcasting to the Governments of Central America and Panamá in this band;

c) In order to provide a separate, primary broadcast channel for each of the seven Governments represented at this Conference, with no secondary broadcast channel on the primary channel, it is agreed that the frequency of 2380 kilocycles be assigned to Honduras as a primary broadcast channel, and it is agreed by all governments represented that the assignment to Honduras of a primary frequency in the band 2350 to 2400 kilocycles does not establish a precedent nor limit in any way whatever rights may be held by the United States of America to the use of frequencies in the band 2350 to 2400 kilocycles subject to non-interference from broadcasting stations in Central America and Panamá in accordance with the General Radio Regulations of Cairo, 1938.

However, the Government of the United States agrees that, insofar as practicable its use in the geographical area covered by this Conference of frequencies other than those now in use in the band 2350 to 2400 kilocycles and furnished to the Conference will be on a basis of non-interference to broadcasting in Central America and Panamá.

PART FOUR

*General Provisions*

a) During the time this Convention is in force, each Government agrees not to use any primary channel assigned to any of the other contracting Governments, except as provided elsewhere in this Convention;

b) The participating Governments acknowledge the right of the military services to use the band of 2300 kilocycles to 2400 kilocycles for military purposes, subject to the provisions and restrictions of paragraphs b) and c), Part Three, of this Convention;

c) The present Convention shall be ratified by the contracting Governments in conformity with their respective constitutional procedures;

d) The ratifications shall be deposited with the Ministry of Foreign Relations of the Government of Guatemala, which shall notify such ratifications, as soon as possible, to the Governments concerned;

e) The present Convention shall become effective, as between the ratifying Governments, thirty days after instruments of ratification have been deposited by at least two of them, with the Ministry of Foreign Relations of the Government of Guatemala;

f) The present Convention may be denounced by notification addressed to the depository Government, which shall become effective as regards the denouncing Government one year after the date of receipt thereof.

The depository Government shall notify all participating Governments, including the denouncing Government, of the denunciations received;

g) The present Convention is drafted in Spanish and English and both texts shall have equal force;

h) The participating Governments recognize that, in spite of the efforts which have been made to arrive at a satisfactory agreement, it is impossible to assure, without actual operation, the completely effective functioning of this agreement, and provision is accordingly made for its revision. Such revision may be made by a future Conference called by a majority of the Governments which have ratified this Convention;

i) Nothing in this agreement shall be construed as precluding the consummation by the United States of America, of other radio agreements concerning the defense of the Canal Zone.

Done in the City of Guatemala, Republic of Guatemala, on the eighth day of December, in the year One Thousand, Nine Hundred and Thirty-eight.

Costa Rica:
R. Castro Q.

El Salvador:
J. Frederico Mejía.
Fidel Villacorta.

United States of America, in behalf of the Canal Zone:
Fay Allen Des Portes.
Harvey B. Otterman.
D. M. Crawford.
M. W. Arps.
Gerald C. Gross.

Guatemala:
L. Schlesinger Carrera.
J. F. Sánchez.
J. B. McElroy.
Arturo Peralta.
Ramiro Fernández.
Walter C. Bay.

Honduras (con los reservas consignadas en el Acta Final [1]):
L. Milla Cisneros.

Nicaragua:
H. Castellón.
H. J. Phillips, Jr.

Panamá:
Teodoro Rudeke.

The PRESIDING OFFICER. The convention is before the Senate and open to amendment. If there be no amendment to be proposed, the convention will be reported to the Senate.

The convention was reported to the Senate without amendment.

The PRESIDING OFFICER. The resolution of ratification will be read.

The legislative clerk read as follows:

*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of Executive J, Seventy-sixth Congress, first session, a regional radio convention for Central America, Panama, and the Canal Zone signed at the Regional Radio Conference for Central America, Panama, and the Canal Zone at Guatemala City on December 8, 1938.

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification. [Putting the question.] Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the convention is ratified.

Mr. PITTMAN. Mr. President, there are several other treaties on the calendar, but I will not ask that they be taken up now, although they are merely pro forma matters, treaties of extradition, and so forth.

RECOGNITION OF THE SERVICES OF PANAMA CANAL EMPLOYEES

The Senate resumed legislative session.

Mr. PEPPER. Mr. President, there is on the calendar Senate bill 1162, to provide for the recognition of the services

[1] Translation: With the reservations stated in the Final Act. For reservations made by Honduras, see report of the Secretary of State.

of the civilian employees and officials, citizens of the United States, who were engaged in the construction of the Panama Canal. The bill contemplates a provision for recognition of the services of those employees by granting to them certain annuities. It has been on the calendar for several months with a favorable report from the Committee on Interoceanic Canals of the Senate.

I believe a similar House bill has had a favorable report by the appropriate House committee and is on the House calendar. I have deferred from time to time to other bills until I feel that an injustice has been done to this proposed legislation. So I give notice that in the early part of next week I shall call the bill up and insist upon its consideration, if I may.

RECESS TO MONDAY

Mr. PITTMAN. I move that the Senate take a recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 4 o'clock and 32 minutes p. m.) the Senate took a recess until Monday, July 24, 1939, at 12 o'clock meridian.

## NOMINATIONS

*Executive nominations received by the Senate July 21 (legisday, July 18), 1939*

UNITED STATES ATTORNEYS

Howard L. Doyle, of Illinois, to be United States attorney for the southern district of Illinois. Mr. Doyle is now serving in this office under an appointment which expired April 5, 1939.

Miles N. Pike, of Nevada, to be United States attorney for the district of Nevada to fill an existing vacancy.

## CONFIRMATIONS

*Executive nominations confirmed by the Senate July 21 (legisday, July 18), 1939*

UNITED STATES ATTORNEY

Frederick V. Follmer to be United States attorney for the middle district of Pennsylvania.

POSTMASTERS

ALASKA

Agnes L. Reinert, Ketchikan.
Richard F. Brennan, Petersburg.

CONNECTICUT

Albert P. Walsh, Danbury.
John P. Bridgett, Wallingford.
Charles A. Babin, Waterbury.
James J. Lee, Willimantic.
Robert E. A. Doherty, Winsted.

FLORIDA

Albert V. Prevatt, Green Cove Springs.
Gertrude B. Scott, Jacksonville Beach.

INDIANA

James Russell Smith, Gosport.
Richard G. Averitt, Plainfield.
James C. Rice, Spencer.

LOUISIANA

Charles E. Hearne, Chatham.
Leonard L. Jackson, Clarks.
Mrs. Tommy G. Biggs, Lake Providence.

MARYLAND

Howard H. Wiley, White Hall.

MISSOURI

Samuel S. Harrison, Auxvasse.
John R. Sims, Blackwater.
Edgar W. Stone, Bland.
Raymond K. Elliott, Bunceton.
William S. Drace, Centralia.
C. Leslie Parks, Cole Camp.
Elmer E. Sagehorn, Concordia.
Charles Shumate, Edina.
Wallace L. Talbot, Fayette.
A. Josephine Humble, Grandview.
Ivan Nile Knowles, Green Castle.
Joseph W. Evans, Hale.
Jesse M. Hawkins, Ironton.
Harvey B. Lynch, Lincoln.
Edna S. Spencer, Malta Bend.
Meredith B. Lane, Sullivan.
Clinton O. Brockman, Tuscumbia.

OKLAHOMA

Claude L. Willis, Canton.
Theodore S. Hawkins, Hitchcock.

OREGON

Sanford Adler, Baker.
Victor P. Moses, Corvallis.
Erma L. Basford, Florence.
Elof T. Hedlund, Portland.
William Reid, Rainier.
Lester L. Wimberly, Roseburg.

RHODE ISLAND

Robert E. Bitgood, Hope Valley.
Edward F. McCarthy, Wakefield.
Grace S. Croome, West Kingston.

SOUTH CAROLINA

Lewis M. Jones, Alcolu.
Philip M. Clement, Charleston.
Walter T. Barron, Fort Mill.
Hobson B. Taylor, Kershaw.
Albert H. Askins, Timmonsville.

TEXAS

Kathryn A. Baker, Edna.

VERMONT

Smith M. Matson, Dorset.
Irma K. Mitchell, Fairfax.
Helen M. Boyle, Gilman.
J. Clarence Nolin, Jericho.
Henry C. Brislin, Rutland.
Francis J. Mullin, Wallingford.
Daniel P. Healy, White River Junction.

VIRGINIA

Samuel S. Brooks, Appalachia.
Dewey Arrington, Cleveland.

WISCONSIN

John L. Cunningham, Beaver Dam.
William H. McCrea, Benton.
Albert L. Ehret, Prairie du Sac.

## REJECTIONS

*Executive nominations rejected by the Senate July 21 (legislative day July 18), 1939*

POSTMASTERS

ILLINOIS

John J. Welch to be postmaster at Deerfield in the State of Illinois.

Raymond A. Kennedy to be postmaster at Libertyville in the State of Illinois.

# HOUSE OF REPRESENTATIVES

FRIDAY, JULY 21, 1939

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our blessed Heavenly Father, Giver of all good things in heaven and earth, we beseech Thee to bestow upon us blessings of purity of mind, rest of body, and guidance in all our labors. Grant that without sound, that the temples of our souls may arise with spiritual windows towering out of time.

Lead us to help others who may be in the shadow and gloom of failure and disappointment; pity the heavy-laden, the downtrodden, and the weary. May no temptation assail and no barrier of security be broken down to weaken their courage and resistance. In our comfort, the Lord help us to remember the poor who suffer from the sting of wintry winds and the blight of summer diseases. In the tendencies of our natures may there be more consecrated realms where purity rules and where self-renunciation is the crown of honor. With deep gratitude pulsating in our breasts, may we go on befriended, soothed, and deathlessly nourished by life, which is the ever-present goodness of God. In our Redeemer's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

ATTENDANCE OF UNITED STATES NAVAL ACADEMY BAND AT NEW YORK WORLD'S FAIR, ON MARYLAND DAY

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2805) to authorize the attendance of the United States Naval Academy Band at the New York World's Fair on the day designated as Maryland Day at such fair.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the President is authorized to permit the band of the United States Naval Academy to attend and give concerts, without expense to the United States, at the New York World's Fair on July 28, 1939, which has been designated as Maryland Day at such fair.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A House bill was laid on the table.

EXTENSION OF REMARKS

Mr. SWEENEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a letter from our former colleague, Mr. John J. O'Connor, to another former colleague, Mr. Edgar Howard, of Nebraska.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. WOODRUM of Virginia. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a short editorial from the New York Times.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUCK. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on two subjects.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FEDERAL AID TO STATE OR TERRITORIAL HOMES FOR SUPPORT OF DISABLED SOLDIERS AND SAILORS OF THE UNITED STATES

Mr. FADDIS. Mr. Speaker, by direction of the chairman of the Committee on Military Affairs I ask unanimous consent to take from the Speaker's table the bill (H. R. 4647) to increase the amount of Federal aid to State or Territorial homes for the support of disabled soldiers and sailors of the United States, with a Senate amendment, and concur in the Senate amendment.

The Clerk read the title of the bill.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, will the gentleman explain the amendment?

Mr. FADDIS. This is a bill that was passed by the House increasing the Federal aid to State soldiers' homes for care of veterans and where the Federal aid was increased from $120 to $240 a year. It went to the Senate, and the Senate put in one amendment to take care of a regulation that the Veterans' Bureau had enacted, and they put in another amendment by which they prevented any back pay or accumulation of back pay before they were put under the care of the Administration.

Mrs. ROGERS of Massachusetts. Mr. Speaker, reserving the right to object, this will be a great help to the States, will it not?

Mr. FADDIS. Yes, indeed.

Mrs. ROGERS of Massachusetts. As well as the veterans.

Mr. FADDIS. Yes.

Mr. IZAC. Mr. Speaker, reserving the right to object, will the gentleman state whether we are going to accede to the Senate amendment or are we going to insist?

Mr. FADDIS. I want to concur in the Senate amendment, as it is acceptable to the committee.

Mr. VAN ZANDT. Mr. Speaker, reserving the right to object, does that include Pennsylvania?

Mr. FADDIS. Yes.

Mr. VAN ZANDT. The State Soldiers' Home at Erie?

Mr. FADDIS. Yes; all State homes.

The SPEAKER. Is there objection?

There was no objection.

The clerk read the Senate amendment as follows:

Line 13, after "enacted" insert: ": *Provided*, That said payments shall be made regardless of whether said veteran may be receiving domiciliary care or hospitalization in said home and the appropriations of the Veterans' Administration for medical, hospital, and domiciliary care shall be available for this purpose: *Provided further*, That no payment to a State or Territory under this act shall be made for any period prior to the date upon which the Administrator of Veterans' Affairs determines that the veteran on whose account such payment is requested is eligible for such care in a Veterans' Administration facility."

The SPEAKER. The question is on concurring in the Senate amendment.

The Senate amendments were concurred in.

EXTENSION OF REMARKS

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a letter from Claude Babcock protesting against the passage of H. R. 960, extending the Federal civil service.

The SPEAKER. Is there objection?

There was no objection.

Mr. LELAND M. FORD. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. LELAND M. FORD. Mr. Speaker, I do this to direct the attention of Members of the House to a statement of the Guaranty Survey showing the rising Government debt, and some of its consequences in this country, particularly with reference to the amount of taxes called for from business, and the effect it is having on confidence and business. I ask unanimous consent to extend my remarks in the RECORD and to include this statement from the Guaranty Trust Co.

The SPEAKER. Is there objection?

There was no objection.

ADMINISTRATION OF UNITED STATES COURTS

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 188) to provide for an Administrator of United States Courts, and for other purposes, with a House amendment, to insist upon such amendment, and agree to the conference asked.

The SPEAKER. The gentleman from New York asks unanimous consent to take from the Speaker's table the bill S. 188, with a House amendment thereto, insist on the House amendment, and agree to a conference. Is there objection?

Mr. RABAUT. Mr. Speaker, I reserve the right to object. Will the gentleman tell us about this?

Mr. CELLER. Mr. Speaker, this bill provides machinery to expedite the handling of cases in the various Federal district courts. It sets up an administrator under the supervision of the Attorney General to watch these cases and see to it that the dockets are cleared, so that there will be a complete expedition in the handling of all of these cases.

Some amendments have been made by the House to the Senate bill, and we would like to straighten that matter out.

Mr. RABAUT. Mr. Speaker, does the gentleman know that this matter was under consideration in the House here about 30 days ago, and that after long hearings on the part of the Committee on Appropriations it was decided that the Attorney General should exercise some measure of control over the probation officers and that this House amendment completely negatives the House and Senate action on the subject?

Mr. CELLER. I do not think it is exactly as stated. The bill primarily is not a probation bill. We did, however, make changes and repealed a small portion of an appropriation bill which contained straight legislation concerning probation officers.

Mr. RABAUT. I call the gentleman's attention to the following on page 7 of the amendment:

SEC. 309. The following quoted provision of the act making appropriations for the Departments of State and Justice, and for the Department of Commerce (H. R. 6392) for the fiscal year ending June 30, 1940, approved June 29, 1939, Public Act No. 156, Seventy-sixth Congress, first session, to wit: "That no part of this appropriation shall be used to defray the salary or expenses of any probation officer whose work fails to comply with the official orders, regulations, and probation standards promulgated by the Attorney General: *Provided further*, That no funds herein appropriated shall be used to defray the salary or expenses of any probation officer unless the district judge shall have so far as possible required the appointee to conform with the qualifications prescribed by the Attorney General: *Provided further*, That nothing herein contained shall be construed to abridge the right of the district judges to appoint probation officers, or to make such orders as may be necessary to govern probation officers in their own courts"—

And here is what is added—

is hereby repealed.

Mr. CELLER. What is the gentleman's attitude; what does the gentleman wish done?

Mr. RABAUT. I do not think this repeal should be here at all.

Mr. CELLER. We will be very glad to take that into consideration when the conferees meet.

Mr. THOMAS S. McMILLAN. But we want an assurance from the gentleman when he goes to conference that the conferees will see that the provision which has been inserted in this bill is stricken out.

Mr. CELLER. Of course, I cannot speak for the other conferees, who would be the gentleman from Tennessee [Mr. CHANDLER], the gentleman from Alabama [Mr. HOBBS], the gentleman from Michigan [Mr. MICHENER], and the gentleman from Iowa [Mr. GWYNNE]. I cannot tell what their attitude will be, but I am sure that they will take into consideration what the gentleman says. As far as I am concerned I shall be very glad to take it into consideration.

Mr. THOMAS S. McMILLAN. I spoke to the gentleman from Alabama [Mr. HOBBS] about the matter yesterday, as well as the gentleman from Tennessee [Mr. CHANDLER], members of the gentleman's committee whom I assumed would be members of the conference committee, and while I cannot speak for those gentlemen, they are here, and I would like to have them give us some expression as to this matter of probation officers.

Mr. CELLER. As fas as I am concerned, I may say that I have always had the highest regard for the point of view of the gentleman from South Carolina as well as for the point of view of the gentleman from Michigan, and I shall take into consideration everything the gentleman says and endeavor to bring about what they desire.

Mr. THOMAS S. McMILLAN. The point is, Mr. Speaker, that this matter was brought up under suspension of the rules last Monday, at which time the House membership was not advised that this provision was in this bill. I say in deference to my friend from Alabama [Mr. HOBBS], a member of the gentleman's committee, that he did advise me of the action taken by the Judiciary Committee in that this provision had been reported out by the committee, but the gentleman from Alabama himself will tell the House that he did not know at the time that this provision was going to be considered under suspension of the rules. The gentleman is here and he will agree to that?

Mr. HOBBS. Yes.

Mr. THOMAS S. McMILLAN. And I say to the gentleman that in view of that situation I think the committee members of the conference committee on the part of the House ought to be in position to assure the House that no agreement will be had in connection with this provision which is in conference, but that it will be stricken from the bill.

Mr. HOBBS. I for one want to make it clear that I am not giving any such assurance. I do not think that the legislation which was engrafted upon an appropriation bill was proper. I do not believe that it was considered in the light of existing law and it was for that reason that the Judiciary Committee authorized the committee amendment. I am perfectly willing that the majority of the conferees shall rule. I have no disposition to be obdurate, but I do think that the facts and the law should be thoroughly considered by the conferees, and that they should make up their minds accordingly.

Mr. THOMAS S. McMILLAN. The gentleman is aware of the fact that this question was debated at length on the floor of this House at the time the bill was under consideration, and this House voted on this very question. Notwithstanding that fact, here we are today confronted with this very provision in this bill, which was approved by the President less than 3 weeks ago.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. CELLER]?

Mr. HOBBS. Mr. Speaker, reserving the right to object, I wish to make this amendment to the gentleman's statement. I believe there is no man in this House who wants to be more fair in everything than the distinguished gentleman from South Carolina [Mr. THOMAS S. MCMILLAN], but he is certainly mistaken in his latest statement. I cite the RECORD of June 23, 1939, pages 7810 to 7813, inclusive, to prove that there was no vote on any of the amendments which were in agreement, such as No. 21, the one I criticized, but only on the adoption of the conference report and the amendments in disagreement. If you will look on page 7811 of the RECORD cited supra, you will see that I did not oppose the adoption of the conference report.

Mr. HOFFMAN. Mr. Speaker, I object for the present.

Mr. THOMAS S. McMILLAN. I hope the gentleman will reserve his objection, because I am anxious to have this matter disposed of, but I do desire to see the integrity of the House preserved. That is the whole thing. If we could get some assurance from the gentleman as he goes into conference with the Senate that we will have that assurance, then I shall not object. Otherwise I will have to.

Mr. CELLER. I will say it is quite natural for the gentleman to take the position he is now taking, in view of what his own committee has done.

Mr. THOMAS S. McMILLAN. And what the House has done, I may say.

Mr. CELLER. There is no disposition on the part of the membership to be unfair.

The SPEAKER. Is there objection?

Mr. RABAUT. Mr. Speaker, the fact of this matter is that the Senate bill—S. 188—which was made the subject of the motion to suspend the rules, was not even on the House Calendar. It was still in the Judiciary Committee, and when the House bill, which was on the calendar, was added to the Senate bill by way of an amendment this repealing provision was inserted as a committee amendment. It did not even appear in the House bill. No one was on proper notice of the intention to include the repealing provision under a suspension-of-rules motion, and I do not believe the House knew what it had acted upon. Therefore, I feel obliged to object.

## EMIGRATION OF CERTAIN FILIPINOS FROM THE UNITED STATES

Mr. SCHULTE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4646) to provide means by which certain Filipinos can emigrate from

the United States, with Senate amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, line 5, after "States", insert "or in the case of a Filipino residing in Hawaii, to a port in that Territory."

Page 2, line 16, after "States", insert "or, in the cases of residents of Hawaii, to a port in that Territory."

Page 3, line 3, after "States", insert "and in Hawaii."

Page 3, lines 8 and 9, strike out "any port on the west coast of the United States" and insert "the port of embarkation in the United States or Hawaii."

Page 4, lines 5 and 6, strike out "the United States, its Territories or possessions" and insert "any State or Territory or the District of Columbia."

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Senate amendments were agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. BATES of Massachusetts. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. BATES of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my remarks and include a letter from the mayor of Gloucester.

The SPEAKER. Is there objection?

There was no objection.

[Mr. BATES of Massachusetts addressed the House. His remarks appear in the Appendix.]

EXTENSION OF REMARKS

Mr. PLUMLEY. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection it is so ordered.

There was no objection.

THE FISCAL SITUATION

Mr. RICH. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. RICH. Mr. Speaker and Members of the House, I should feel very derelict in my duty if I did not call your attention to the fact that, according to the Treasury statement issued by Mr. Morgenthau, Secretary of the Treasury, on July 17 you have gone in the red at the rate of over $20,523,000 a day. That means over $14,000 a minute. You are spending that much more than you are taking in. That is an enormous sum. For every dollar we receive we spend $1.66.

WHERE ARE YOU GOING TO GET THE MONEY?

I want to call attention, Mr. Speaker, to the fact that there are many more bills coming on the floor of the House in the next 10 days or 2 weeks which this Congress will be asked to pass. Every one of those bills will require additional money. Eventually the taxpayers of this country will have to pay for it. Remember, Mr. Speaker, you were three and one-half billion dollars in the red from last year. You have already appropriated money to put you over $4,000,000,000 in the red this year. Be careful what you do. Watch your step. Stop ruthless expenditures. Be sensible, be sane, be prudent in your spending. You will all regret it if you do not.

[Here the gavel fell.]

EXTENSION OF REMARKS

Mr. HALL. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a short radio address delivered in my district by W. Kingsland Macy.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CLASON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a statement by L. T. Stone in Cotton and Cotton Oil Prices of June 24, 1939.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CALL OF THE HOUSE

Mr. KLEBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present in the Chamber.

Mr. RAYBURN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 143]

| | | | |
|---|---|---|---|
| Anderson, Calif. | Cummings | Healey | Schwert |
| Andrews | Curley | Hendricks | Secrest |
| Bolton | Dies | Kelly | Seger |
| Boren | Ditter | Kerr | Shanley |
| Brewster | Eaton, Calif. | Lambertson | Smith, Maine |
| Buckler, Minn. | Elliott | Lemke | Smith, Ohio |
| Buckley, N. Y. | Evans | McLean | Sumners, Tex. |
| Byrne, N. Y. | Ferguson | Magnuson | Thomas, N. J. |
| Byron | Fernandez | Massingale | Weaver |
| Casey, Mass. | Fitzpatrick | Mitchell | West |
| Cluett | Flaherty | Norton | Whelchel |
| Connery | Folger | O'Brien | Wolfenden, Pa. |
| Cooley | Ford, Thomas F. | Patman | Wood |
| Crawford | Gifford | Rockefeller | Woodruff, Mich. |
| Creal | Hartley | Sacks | Zimmerman |

The SPEAKER. Three hundred and sixty-eight Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ADMINISTRATION OF UNITED STATES COURTS

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 188) to provide for the administration of the United States courts, and for other purposes, insist on the House amendment, and agree to the conference asked by the Senate.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, in order to send this bill to conference was any agreement entered into about which the House might like to know?

Mr. CELLER. No agreement whatever.

The SPEAKER. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. CELLER, CHANDLER, HOBBS, MICHENER, and GWYNNE.

ROY-JENKS ELECTION CONTEST, SEVENTY-FIFTH CONGRESS

Mr. JENKS of New Hampshire. Mr. Speaker, I submit a unanimous-consent request, which I send to the desk.

The Clerk read as follows:

Mr. JENKS of New Hampshire asks leave to withdraw from the files of the House the original Newton check lists which were submitted in connection with the Roy-Jenks election contest in the Seventy-fifth Congress.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

BEER PURCHASES IN DISTRICT OF COLUMBIA

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 5137) to prohibit the purchase of beer on credit by retailers in the District of Columbia, with a Senate amendment, and agree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read as follows:

Page 2, after line 18, insert:
"SEC. 4. This act shall expire July 30, 1940."

Mr. MARTIN of Massachusetts. Mr. Speaker, may I ask the gentleman if the only effect of the amendment is to change the date of expiration of the act?

Mr. RANDOLPH. I may say to the gentleman from Massachusetts that the Senate felt the measure should be in the nature of an experiment, to be tried out for 1 year only.

Mr. MARTIN of Massachusetts. I presume that all legislation concerning the District is more or less experimental anyway.

Mr. RANDOLPH. Somewhat, I am afraid.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Senate amendment was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. ELLIS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an address which I made day before yesterday before the Federal Bar Association.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

INVESTIGATION OF NATIONAL LABOR RELATIONS BOARD

Mr. SMITH of Virginia. Mr. Speaker, on yesterday the House passed House Resolution 258. There is now pending on the calendar a similar resolution for the same purpose, House Resolution No. 229. I ask unanimous consent that House Resolution No. 229 may be laid on the table.

The SPEAKER. Is there objection to the request of the gentleman from Virginia [Mr. SMITH]?

There was no objection.

EXTENSION OF REMARKS

Mr. FISH asked and was given permission to extend his own remarks in the RECORD.

ANNOUNCEMENT

Mr. CRAWFORD. Mr. Speaker, on three occasions this week when the roll was called I was attending a session of the Banking and Currency Committee and at the immediate time the roll was being called I was interrogating witnesses. I ask that the RECORD may show that fact.

AMENDMENT TO INTERSTATE COMMERCE ACT

Mr. SABATH. Mr. Speaker, I call up House Resolution 262.

The Clerk read as follows:

House Resolution 262

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 2009, an act to amend the Interstate Commerce Act, as amended, by extending its application to additional types of carriers and transportation and modifying certain provisions thereof, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 4 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Interstate and Foreign Commerce now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

With the following committee amendment:

Page 1, line 10, strike out "four" and insert "six."

Mr. SABATH. Mr. Speaker, as I understand it, the gentleman from Michigan [Mr. MAPES] desires to use his time, and I therefore yield him 30 minutes. I may say to the gentleman that I am going to yield some of my time to gentlemen who are opposed to the resolution, and, in view of the fact that the gentleman from Michigan is in favor of the resolution, I hope he will also divide his time.

Mr. MAPES. Mr. Speaker, I intend to yield some of my time to those who are opposed.

Mr. SABATH. Mr. Speaker, this rule makes in order legislation extremely important to the entire Nation. It has to do with the railroad relief bill known as the Lea bill in the House. Personally, I am following the practice of bringing before the House any and all important legislation without having it smothered in the Rules Committee, as has been done in the past. There appeared before the Rules Committee between 40 and 50 Members of the House against the resolution. They maintained that because of its importance it should be delayed and more time granted before the bill is considered. However, the majority leader has made arrangements for the bill to be taken up today, and it has been suggested by the Committee on Interstate and Foreign Commerce that the President is in favor of early action. The Rules Committee, therefore, has reported this resolution which brings the measure to the House for its consideration.

It seems to me that many Members are under the impression that this merely deals with the water and so-called truck regulation; but the bill also contains a very important provision giving the R. F. C. certain powers, with the approval of the Interstate Commerce Commission, with reference to the financing, reorganizing, consolidating, maintaining, and construction of railroads.

I feel honor bound to call the attention of the House to the important provisions in the bill. The resolution covering consideration of the bill is in your hands. The rule provides for 6 hours of general debate. Originally only 4 hours were requested, and ordinarily the amount requested is reduced, but in this instance it has been increased, giving the Members ample opportunity to be heard and to discuss this important piece of legislation which this rule makes in order.

Mr. CULKIN. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from New York.

Mr. CULKIN. Is it the understanding of the distinguished chairman of the Rules Committee that the time is to be equally divided between the proponents and opponents of the bill?

Mr. SABATH. In general debate?

Mr. CULKIN. Yes.

Mr. SABATH. Yes; in general debate as well as the time on the rule, and that is why I propounded a question of the gentleman from Michigan. In view of the fact there are several other gentlemen who desire to be heard, I shall conclude my remarks.

Mr. MAPES. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Michigan.

Mr. MAPES. Of course, if I have anything to do with the handling of the time on the rule I will try to divide the time equitably and fairly, but I did not understand that the question the gentleman propounded of me had anything to do with the time in general debate or that it mentioned anything about an equal division of the time.

Mr. SABATH. Knowing the gentleman as I do, I know he is going to be fair and that the time will be equally divided. I am going to try to do the same thing.

Mr. LEA. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from California.

Mr. LEA. I would suggest to the gentleman that the principal controversy here seems to be in reference to the water provisions of the bill, and that probably represents only 40 percent of what is involved in the bill.

Mr. SABATH. That is the reason I have called attention to the other matters that are involved in the bill.

Mr. LEA. We will endeavor to be fair, however.

Mr. SABATH. Mr. Speaker, I reserve the balance of my time, and now yield 30 minutes to the gentleman from Michigan [Mr. MAPES].

Mr. MAPES. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, in my judgment, legislation seldom comes before the House with more careful and painstaking consideration having been given it by the committee reporting it than has been given to this legislation. The importance of the legislation I believe cannot be overestimated. Whether anyone agrees with the bill or not, I believe he will agree that it is important.

I can say something about the care and attention which has been given to the legislation in a disinterested way, because I have not had any major part in the work leading up to the presentation of it to the House. The bill has been before the Committee on Interstate and Foreign Commerce

in a concrete way all this year, and the policy of it has been considered by the committee for a long time. The committee held hearings on the bill for about 10 weeks. After the close of the hearings a subcommittee was appointed to consider the legislation and to redraft the bill that was before the committee. I want to name the members of that subcommittee because I believe every man on the subcommittee has the confidence and the respect of the House. The House knows that any legislation coming from that subcommittee would be well thought out and would represent the earnest convictions of the members of it. The legislation was considered in a strictly nonpartisan sense and the bill before us has the support of every member of the subcommittee, Democrats and Republicans alike.

The subcommittee consists of the able chairman of the Committee on Interstate and Foreign Commerce, Mr. LEA, of California; Mr. CROSSER, of Ohio; Mr. BULWINKLE, of North Carolina; and Mr. COLE, of Maryland, on the Democratic side; and on the Republican side Mr. WOLVERTON, of New Jersey; Mr. HOLMES, of Massachusetts; and Mr. HALLECK, of Indiana.

Let me say that seldom, if ever, has a committee of the House worked harder or more faithfully or put in longer hours than did that subcommittee in the consideration and the redrafting of this bill.

The bill comes necessarily from the Committee on Interstate and Foreign Commerce because under the rules of the House that committee has jurisdiction over legislation affecting railroads At the same time it is not a railroad bill. It is not primarily for the purpose of aiding the railroads. It is primarily for the purpose of furnishing the country with an adequate, efficient, and cheap transportation system. Speaking for myself if anyone here, after giving it mature and careful consideration, reaches the conclusion that it is not in the interest of the country as a whole, then I hope he will vote against it.

There is bound to be controversy and differences of opinion over an important piece of legislation of this kind. Every interest that is affected, even in the remotest degree, is bound to raise some question about it. As I understand, the principal controversy is over the provisions relating to the regulation of water carriers. The bill in a very modest way does look toward the regulation of water carriers.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. MAPES. I yield to the gentleman from Kentucky.

Mr. MAY. Of course, being a busy member of another committee, I have not had time to read all the hearings on this measure. I feel that the subject matter of the proposed legislation is such that the average Member of the House who is not either on the committee or has had an opportunity to think carefully through the legislation would do well to follow the committee in the matter. As I understand, the principal issue is between water-borne transportation and the railroads.

Mr. MAPES. I do not believe that is the sole issue. In fact I am inclined to think the greater issue is whether the Maritime Commission or the Interstate Commerce Commission will have jurisdiction over the fixing of rates of the water carriers. I sometimes think the opposition is more because the bill proposes to deprive the Maritime Commission of a little of its authority over water carriers rather than because of anything else. Some of those who are violently opposed to this bill believe that water carriers should be regulated, but they think the regulating should be done by the Maritime Commission instead of by the Interstate Commerce Commission. This is just another one of those things. Whenever legislation proposes to limit, or interfere with, the jurisdiction of any commission or bureau there is bound to be opposition to it.

Mr. BLAND. Mr. Speaker, will the gentleman yield for one inquiry?

Mr. MAPES. I yield to the gentleman because I made some reference to the Maritime Commission.

Mr. BLAND. The paging of the bill before the House is 108 pages, 51 of which are devoted to waterways. Does the gentleman believe that is modest regulation of the waterways?

Mr. MAPES. The subject has been gone into rather extensively and carefully so as to make sure that the regulation is modest.

Mr. HALLECK. Mr. Speaker, will the gentleman yield?

Mr. MAPES. I yield to the gentleman from Indiana.

Mr. HALLECK. The gentleman is also a member of the Committee on Rules. Does the gentleman not recall that one of the Members of the House, in opposition to the granting of the rule, only yesterday suggested that 18 percent of the commerce of the country is water-borne and that this bill exempts 15 percent of it and undertakes to exercise control or regulation over only 3 percent of it?

Mr. MAPES. I may say to the gentleman that I thought that was an extreme statement, but it was made by one of the opponents of this legislation.

The purpose of this bill is not to raise railroad rates or motor-carrier rates or rates over water carriers. It does not necessarily follow that rates over these different systems will be increased because they are regulated; in fact, it is hoped that the direct contrary will be the result.

Members of the House received a short time ago the advance copy of the Round Table on Transportation Policy and the Railroads which Fortune published in its August issue. The letter accompanying it goes on to tell how the members of the Round Table are selected. They are experts and represent different points of view, but they unanimously agreed, and I quote that—

> The railroads and other forms of internal transport should be placed upon an equal basis so far as regulations and alleged Government subsidies are concerned, except during a promotional stage.

[Here the gavel fell.]

Mr. MAPES. Mr. Speaker, I yield myself 4 more minutes.

This is exactly what this legislation proposes. That is what the Committee on Interstate and Foreign Commerce has had in mind in presenting this legislation to the House.

As to this rule, all anyone is asking in regard to it is that the membership of the House adopt the rule and give the legislation the consideration which its importance deserves. If after doing that anyone thinks it is not in the best interest of the country, then for one I shall expect him to vote against it; but if, after he does give it such consideration, he reaches the conclusion it is for the best interests of the country then, of course, he will resist the pressure groups that are working in opposition to it and vote for it.

In this connection I ask permission to extend my remarks and to incorporate therein an editorial from Labor, which came to our desks this morning and with which I heartily agree.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The editorial referred to follows:

"FAIR FIELD; NO FAVORS," ASSURED ALL TRANSPORT—WATER CARRIERS' ARGUMENTS REFUTED BY HOUSE COMMITTEE; CONSOLIDATION PROVISIONS GREAT IMPROVEMENT ON EXISTING LAW; EMPLOYEES' RIGHTS ARE AMPLY SAFEGUARDED

(An editorial)

Labor hopes the House of Representatives will pass the Lea bill by an impressive majority. It represents months, and even years, of patient, capable labor by all elements interested in the transportation industry.

It has the support of the President of the United States, whose Committee of Six formulated the basic principles. It is earnestly endorsed by the Railway Labor Executives' Association, speaking for the standard railroad labor organizations, with close to 1,000,000 members in the United States and Canada. The carriers, through the Association of American Railroads, are supporting it with equal fervor.

The bill does not discriminate against any form of transportation. On the contrary, it specifically instructs the Interstate Commerce Commission to "preserve the inherent advantages of each mode of transportation." George M. Harrison, chairman of the Railway Labor Executives' Association and a member of the Committee of Six, interprets that mandate to the I. C. C. to mean that steam railroads, water carriers, and motor transportation shall all be given "a fair field and no favors."

In the matter of railroad consolidations, the bill safeguards all interests. The element of Government compulsion is removed, the carriers are permitted to submit plans for mergers, but the I. C. C. is designated a watchdog to protect the public interests.

For the first time, a specific provision is written into the law to protect the interests of employees who may be adversely affected by consolidations authorized by the I. C. C. Furthermore, for the first time employees are granted the right to intervene in consolidation proceedings.

Thus in the matter of consolidations, the Lea bill is a tremendous improvement over existing law and, in the judgment of Labor, is the most enlightened proposal so far submitted to Congress.

Labor records the simple truth when it says: "The Lea bill has the solid backing of the Railway Labor Executives' Association, the Association of American Railroads, and of the President of the United States, and, if enacted, it will insure a square deal to all mode of transportation."

Mr. MAPES. Because my time is limited, I shall read only two or three sentences from that editorial:

This legislation has the support of the President of the United States, whose Committee of Six formulated the basic principles. It is earnestly indorsed by the Railway Labor Executives' Association, speaking for the standard railroad labor organizations, with close to 1,000,000 members in the United States and Canada. The carriers, through the Association of American Railroads, are supporting it with equal fervor.

The bill does not discriminate against any form of transportation. On the contrary, it specifically instructs the Interstate Commerce Commission to "preserve the inherent advantages of each mode of transportation."

Let me read another paragraph from this editorial relating to railroad consolidations and their effect upon railroad labor:

For the first time, a specific provision is written into the law to protect the interests of employees who may be adversely affected by consolidations authorized by the Interstate Commerce Commission. Furthermore, for the first time employees are granted the right to intervene in consolidation proceedings.

Mr. Speaker, without taking any more time I say again that I trust the membership of the House will adopt this rule; that it will listen to the debate; that it will study this bill; and if it agrees with the committee, that it will vote for its passage. If, after thorough consideration of the measure it thinks it is not desirable, that it will vote it down. As for myself, I think it is desirable legislation and shall vote for the rule and for the passage of the bill. [Applause.]

Mr. SABATH. Mr. Speaker, I yield 7½ minutes to the gentleman from North Carolina [Mr. WARREN].

Mr. MAPES. Mr. Speaker, I yield 7½ minutes to the gentleman from North Carolina.

Mr. WARREN. Mr. Speaker, on yesterday a large bipartisan group, fairly representative of both sides of the House, spent a considerable part of the day before the Rules Committee protesting against the consideration of this bill until January. We were never gullible enough to think that it would not come out. Yesterday we were merely building up our case for a larger forum here in the House today. We protested then, and we protest now, the indecent haste of trying to rush through this measure in the dying days of a distracted Congress without opportunity for adequate debate, study, or analysis, especially when title III of this act does not have to go into effect until July 1941.

It is claimed that it is a new bill, but it was only made available 2 days ago, and people affected and interested parties throughout the country are clamoring to be heard on the eleventh-hour changes that have been made without their knowledge.

Mr. Speaker, I have no opposition to railroads. Both in North Carolina and in this body I have tried fairly to appraise their problems. I recognize the tremendous part they have played in the upbuilding and the development of the country; but at the same time, because they now claim to be sick, I am not forgetful of their past, their misdeeds, or the time when they corrupted State governments and legislative halls, exploited their labor, built up false capital structures and have continued them even until today, and robbed and plundered and pillaged the American people with exorbitant freight rates and the American investor with watered stock. That is why they were regulated.

This is, in spite of the gentleman from Michigan [Mr. MAPES], a railroad bill. It contains everything they want—from further raids on the R. F. C. to a monopoly of transportation. No Congress in history has done so much for the railroads as has this Congress in the recent tax bill. If, according to common talk, there was a commitment when the 15-percent wage cut was up, that certain of the railroad employees would go along with this bill, while I commend them for keeping their word, I only regret there is nothing in it for them. Mark my words when I say to them as a friend who has stood by them when they needed friends in this body, that not one railroad job will it create, although it will throw thousands and thousands of others who toil out of employment. Certainly they must realize these coordinations and consolidations and shake-downs will ultimately mean the loss of thousands and thousands of their own jobs. As the gentleman from Indiana [Mr. HALLECK] has already said, I was one of those that stated that 18 percent of the transportation of this country is water transportation. We have developed our great natural resources, the rivers and harbors of the country, to afford low-cost transportation, and it has been reflected in a tremendous saving to the American people. Does this bill bring in all water transportation? It does not. Three percent only is covered under it, and why? Why? Let the committee answer that in their own time. Bulk carriers on the Great Lakes are exempt, and I am glad of it, but the common carriers are not. So are certain other bulk carriers. Oil is exempt, but cotton is not. Let no one be deceived, Mr. Speaker, by these exemptions, for a conference will take them in or, under the urge of bureaucracy, they will be brought in next year.

This sop has not been sufficient to alienate those groups from their opposition to this measure, and they are standing firm against it. Every exemption in the bill is in favor of the big fellow and against the little one. Contract carriers will be utterly destroyed. This bill affects every section of the Nation. It will have a blighting effect on Boston, New York, Brooklyn, Philadelphia, Pittsburgh, Baltimore, Norfolk, Wilmington, Charleston, Jacksonville, San Francisco, Seattle, Chicago, Duluth, the Gulf ports, the Mississippi and the Missouri Rivers and their valley, and every waterway in the country. It will mean, and the sole purpose of it is, that water rates will be raised everywhere to a practical parity with rail rates. It will place producers and consumers of the Nation in the grip of an iron-tight transportation monopoly. It will stifle legitimate competition.

Who is against this bill? Well, one of the brotherhoods is against it—the Brotherhood of Railway Trainmen, the largest of all—and have announced their unalterable opposition to it. The United States Maritime Commission, dealing with waterway problems and having a great knowledge of them, is against it. Admiral Land, the chairman of it, says it is perfectly apparent that regulation such as this is not in the public interest. The Secretary of War and the Chief of Engineers are against it. They say there is no dissatisfaction with water transportation, that there is no destructive rate warfare between carriers, and that this bill will substantially increase the cost of transportation and deprive the public of the benefit of cheap and flexible transportation service. The Secretary of Agriculture is against it. He says no industry is so much concerned about low-cost transportation as agriculture. Farmers and other shippers should not be required to pay rates based on the transportation cost of property improvidently built, wastefully operated, or partially obsolete.

All of the maritime unions of the country are against it; all of the longshoremen unions of the country are against it, from both the American Federation of Labor and the C. I. O. The Central Trades and Labor Council of New York City, with a membership of 700,000, is against it.

Mr. Speaker, in January I was one of approximately 125 or 130 Members of this House, Democrats and Republicans, who met in solemn conclave and caucus over there in the House Office Building to protest against the terrific and frightful discrimination in freight rates against the South

and southwestern sections of this country. Someone may get up and point out a section in this bill for an investigation on that subject. Investigation! Yes, the House knows what the average investigation is, and, above everything, the Members know what an investigation by the Interstate Commerce Commission is. Years and years have they already had the authority to make that investigation without anything being inserted in this present bill. Do not let me hear anyone who attended those meetings from Tennessee and Georgia and Texas and Louisiana, Arizona, New Mexico, and southern California protesting against that discrimination if they should decide to vote for this measure. Do not let me ever hear them stand up and whimper about the discriminations existing against those sections today.

Go back and tell the people of those sections, if you do so, that under the pressure of a great lobby you could not resist, and voted to take away from them the very last thing that they had to hold down freight rates in those sections.

This bill, Mr. Speaker, ought to be defeated. It is an outrageous sell-out of the producers and consumers of the Nation and is detrimental to every section of the country. [Applause.]

I yield back the balance of my time, Mr. Speaker.

Mr. SABATH. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. MARTIN J. KENNEDY].

Mr. MARTIN J. KENNEDY. Mr. Speaker and Members of the House, I am a member of the Committee on Interstate and Foreign Commerce that considered this bill, S. 2009.

After listening to the last speaker, the distinguished gentleman from North Carolina [Mr. WARREN] who occupies a very important and exalted position in this House, I am somewhat fearful about even talking. He is usually rather conservative in his statements, but his statements today, to say the least, are rather extravagant.

Our committee had this bill under consideration from January 24 to March 30, and any citizen or representative of a waterway or other form of transportation could appear before that committee and present views for or against the bill. The gentleman from North Carolina [Mr. WARREN] neglected that opportunity, and he comes here at a very late hour protesting with great vigor against the bill.

We had 73 witnesses before the committee, and there were 36 briefs filed concerning the various proposals in the bill.

This bill intends to create a national transportation policy. As you all know, President Roosevelt, some months ago, appointed a committee to study the problem of transportation, and they suggested most of the subjects covered by this bill. Our committee has attempted to write a bill which will provide efficient and economical transportation for all forms and types of industry in this country. It is not intended for any one group. It is intended for all of the people. It includes the railroads, the motor carriers, and the water carriers. I am sure that if the water provision in this bill was eliminated at this minute the opposition to this bill would collapse because that seems to be their only interest.

They discuss at length the number of pages in the bill that are devoted to the water provisions. Well, that is not unusual because it is an entirely new section. When the Interstate Commerce Act was written in 1887, it was attempted to bring the waterways in at that time, but they successfully resisted being included. We have found, throughout the years, that cutthroat competition among the water carriers has reduced them almost to a state of bankruptcy.

The gentleman that preceded me [Mr. WARREN] gave a list of the ports in this country that he would have you believe would either close up or be without business. Well, that is not so. The gentleman mentioned the American Maritime Association as being opposed to this. So that we may have no illusions about their opposition, that is an association supported by shipowners. Naturally, they have a very selfish interest and it apparently suits their purpose to fight this bill.

The gentleman mentioned some labor organizations who are supposed to be in opposition. These organizations did not appear before our committee. Their opposition is based on the theory that if this bill is passed the railroads and motortrucks will get more business and the ships will lose business. Therefore their men will not have their present employment. They are honestly mistaken, because I do not believe there is any possible chance of the motortrucks or the railroads taking business from the steamship lines as a consequence of this bill.

If you are in favor of a national transportation policy and you believe that it is important for the welfare of the employees as well as for the companies to provide efficient, economical, and safe transportation for this country, you will support this rule and you will support the bill.

I believe that the Interstate Commerce Commission will carry out the provisions of this act with all the care and discretion that they have exercised throughout the years in other matters entrusted to them. If you are afraid of that Commission administering this act in an unfair way, then, of course, you will probably vote against the bill. I have sufficient confidence in the Interstate Commerce Commission and sufficient confidence in the administrative heads of this Government to know that no injustice will be done to labor or to any form of transportation.

If we can coordinate the various forms of transportation, we will bring about better working conditions for the employees on every water front as well as on the motor carriers, express companies, and railroads. This will mean better wages, shorter hours, and a general improvement of the whole transportation system. For these reasons I am supporting the rule and shall vote for the bill. I think I can assure the gentleman from North Carolina [Mr. WARREN] that his fears about New York and Brooklyn, which, to my mind, is nothing more than an appeal for New York votes, are unfounded. I am sure our shipping industry in New York City will not be adversely affected one iota by the passage of this bill, but, on the other hand, will stabilize wages, hours, and the cost of transportation. [Applause.]

The SPEAKER. The time of the gentleman from New York has expired.

Mr. SABATH. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. HARRINGTON].

Mr. HARRINGTON. Mr. Speaker, probably no more important problem will be considered by the Seventy-sixth Congress of the United States than that of transportation. It has become increasingly more complex, with many and wider ramifications because of great technological improvements in motortrucks, locomotives, boats, barges, power, and increasing air, highway, and inland waterway transportation. Even the history of transportation in America, to say nothing of its evolution and the many affected factors, such as railroad labor, capital, industries, and the opening of new ports on the rivers of the country, lends itself to the serious and deliberate attention of this body. But how can we in a few short hours pass judgment on this problem that has been in the making since the beginning of a government in the United States?

How can we know that the measure before us is in the interests of the general public when no Member, save those who have religiously attended the hearings and sessions of the Committee on Interstate and Foreign Commerce, ever saw either the bill or the report, containing both a majority report and a minority report, before yesterday afternoon?

Why the speed to jam this measure down our collective throats when by the very terms of the act some of the provisions need not become operative, at the election of the Interstate Commerce Commission, before 1941.

Are we as Members not entitled to study, and conference, with the citizens of our own districts? Do we know how vitally affected will the business interests of our communities be? Do we know whether or not we are not blindly setting a trap to further destroy railroad labor and further increase unemployment within its ranks? Can you be sure that, even though we amend this bill, we will secure a conference committee report that will safeguard the interests of the public generally?

There certainly is no unanimity of opinion amongst the railroad labor organizations in behalf of the measure and certainly no demand for the legislation from the members.

Even admitting that the great Committee on Interstate and Foreign Commerce has worked for several months on the bill, why is it that now, so suddenly, we must take up their bill for consideration? Other committees have worked as hard and as arduously seeking a solution to the problem, and for the past month the Committee on Merchant Marine and Fisheries has had pending before the Rules Committee a bill to regulate waterway transportation and place it where it should be placed, under the Maritime Commission.

Inland waterway transportation is probably more vital to the average citizen of the United States than is air transportation, yet we have set up a separate authority to deal with air travel, the Civil Aeronautics Authority.

Why, then, must waterway transportation be placed under the Interstate Commerce Commission. It does not belong there, and I am suspicious, to say the least, that its only purpose is to destroy inland waterway transportation.

Mr. SABATH. Mr. Speaker, I yield 10 minutes to the gentleman from Mississippi [Mr. COLMER].

Mr. COLMER. Mr. Speaker, as has been stated here this morning, this is a very important piece of legislation. I doubt if the House has been called upon to consider a piece of legislation at this session, or that it will be called upon to consider a piece of legislation at this session, that is more far reaching in its effect, not only upon the transportation system but upon the general welfare of the people of the country at large.

I have no axe to grind with the railroads. On the contrary, the railroads in their present dilemma have my most sincere sympathy. I think the railroads, just like every other department or arm of our economic life, have suffered as a result of a world-wide depression. I want to see the railroads helped as much as possible. I want to see the railroads put back so far as they possibly can be upon a firm basis; but my zeal for the railroads does not sweep me into a position whereby I want to lose sight of the general welfare of the people of this country as a whole, and while of course I could be mistaken, it is my honest considered judgment that if this piece of legislation is enacted into law in its present form it is going to react to the detriment of the people of this country as a whole. [Applause.] I believe that if part III of this bill remains in the bill that it is going to be the greatest blow that cheap transportation in this country has ever received.

For 150 years our Government, looking to the welfare of the people, to give them cheap transportation, has expended untold millions of dollars—yea, billions of dollars—in the building up of the rivers and the harbors of the country. The rivers and harbors of our country, unlike the railroads, belong to the people; they are a part of the natural resources of a great country. They are utilized for the purpose of furnishing cheap transportation to the people of the country.

It is not the amount of transportation that is carried over these waterways that is so important, for, as has already been pointed out, a very limited amount of the tonnage carried in transportation is carried by water-borne carriers; but need I point out to an intelligent Congress that the very fact we have these waterways furnishing this cheap transportation gives us a lever—a club, if you please—to hold over the heads of other forms of transportation to keep down the transportation charges? Let us not be misled; let us not fool ourselves; whenever and if this legislation should be enacted into law in its present form, freight rates will go up all over the country; that will be the inevitable result of the enactment of this proposed legislation. Let me call the attention of my colleague to a further fact.

This is not in the usual sense an administration bill. You have, on the one hand, the powerful Secretary of War, who has the interest of this country at heart, opposed to this legislation. His views are to be found in the minority report. The Secretary of Agriculture, who has at heart the interest of the farming people of this country, is opposed to this legislation. Why are these gentleman opposed to it? They are opposed to it because they realize the importance and the import of the proposed legislation, and that if it is enacted into law cheap transportation will be gone. Let me illustrate briefly what I mean by that.

In my little town of Pascagoula, on the Gulf of Mexico in Mississippi, the Government has a very small investment in a shipyard, or a repair yard, where the Government repairs its craft in that vicinity of the Gulf of Mexico. That does not amount to a great deal; they do not repair a great many ships there; they have to compete with private industry; not only do they have to compete with private industry but they have to underbid private industry upon the repair of these Government vessels by 10 percent.

The fact remains, however, that the great private shipyards know the Government has this little yard there and that they have to keep their bids down low if they are to get the business of repairing these ships. That is what you have in water transportation, if I may draw an analogy, the Government transportation system on the inland waterways, and the rivers and harbors of the country. You have a club to hold over the heads of the railroads which have been monopolistic in the past, to see that cheap transportation and competition is afforded. I do not know whether it is wise to consider this legislation at this time or not, but the Committee on Rules has granted a rule making it in order. So far as I am concerned now that it is in the House I do not know but what we ought to go ahead and consider it. I do, however, want to call the attention of my colleagues to the fact that section 3 of the bill, which does not affect the railroads as much as they would have you believe it does, is a powerful restraint upon them, should be taken out of this bill, and our rivers and harbors, our inland waterways, and other forms of water transportation should be left out of this bill. They are a part of this Government; and I hope that when the amendment is offered by the distinguished gentleman from Texas, that you will go along with us and take this provision out of the bill.

[Here the gavel fell.]

The SPEAKER pro tempore (Mr. COLLINS). The time of the gentleman from Mississippi has expired. All time of the gentleman from Illinois has expired.

Mr. MAPES. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. CULKIN].

Mr. CULKIN. Mr. Speaker, I desire to call the attention of the House to the minority views on this bill. To my mind they represent a succinct and clear statement of the objections to this bill. It amounts to a state paper of first magnitude, and I urge the Members who are concerned about this legislation to read, ponder, and study carefully that minority report before voting on the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SABATH. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 10, strike out "four" and insert "six."

The committee amendment was agreed to.

The resolution was agreed to.

Mr. LEA. Mr. Speaker, I ask unanimous consent that all Members who speak on the rule or on the bill itself may have 5 legislative days in which to extend their own remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California [Mr. LEA].

There was no objection.

Mr. LEA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2009) to amend the Interstate Commerce Act, as amended, by extending its application to additional types of carriers and

transportation and modifying certain provisions thereof, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2009), with Mr. JONES of Texas in the chair.

The Clerk read the title of the bill.

The first reading of the bill was dispensed with.

Mr. LEA. Mr. Chairman, I yield myself 30 minutes.

Mr. Chairman, at this time I call attention to some fundamental features affecting the controversy now before the House. As we advance in the consideration of the bill we will at greater length discuss its specific provisions.

In the spring of 1938 the President appointed a committee of 15 to consider the transportation problem of our country. This was not a new problem, but it was an acute one, coming down from the preceding years. Appropriate conferences were held at the White House, and, finally, after considering this question at length, the President appointed a committee of three to study and make recommendations as to necessary remedial measures. One particular purpose of that special committee was to consider the things that might be done to help the situation immediately.

The committee of 15 readily reached the conclusion that our transportation problems divided themselves into two classes, those of an immediate character and those of long-time importance. The committee was headed by Dr. Splawn, then Chairman of the Interstate Commerce Commission. Commissioners Eastman and Mahaffie were also members. The committee filed a report which in important aspects corresponds to the principal purposes of this bill, particularly the portion having to do with unifying control of the transportation agencies of our country.

Later on the President appointed another committee to consider the whole problem, known as the Committee of Six. This committee was composed of six members representing rail management and labor. In December that committee made a report to the President. The President placed the responsibility on Congress of working out legislation.

In the early part of the present session the chairman of our committee introduced a bill which was prepared with the help of a member of the Interstate Commerce Commission. On the 24th of January hearings were begun by our committee, which continued for 10 weeks. Subsequently other bills were introduced, but the hearing proceeded without any limitation as to the transportation subjects to be presented.

At the opening of the session of the committee the statement was made by the chairman, with the consent of all members, that it was desired that everybody interested in any substantial phase of the transportation problem who had any constructive suggestions would be welcome to present their views. Every phase of the economic life of our country was represented at and took part in the hearings and were welcome.

A subcommittee was then appointed, composed of the chairman, Mr. CROSSER, Mr. BULWINKLE, Mr. COLE of Maryland, Mr. WOLVERTON of New Jersey, Mr. HOLMES, and Mr. HALLECK. I would be ungrateful if I did not express my admiration and appreciation for the work of each of those members of that committee. I have been in Congress for over 22 years, and for 18 of those 22 years I have served as a member of this committee. I never served with a committee that acted with greater fidelity and with a more serious consciousness of responsibility to the Congress and to the country.

Each member of the committee was willing to sacrifice individual convenience to prepare a measure creditable to the House and that would serve the interests of the people of the United States at large.

The gentleman from Michigan [Mr. MAPES], the ranking Member on the Republican side, is recognized as one of the outstanding men in this House on the question of transportation legislation. I could go ahead and name each member of the subcommittee and say that each one materially contributed to the bill that is now pending before us. So far as we were able, this bill represents what we believe is a sane and useful approach to our transportation problem.

I could not pass on without paying tribute to Mr. A. H. Perley and Mr. Frank Mullen, who helped draft this legislation. They gave generously of their splendid ability and untiring service to perfect this measure.

About a year ago, when I assumed some responsibility on account of appointment to the President's committee, after surveying the question and the problem that confronted the country, I rather despaired of securing a bill that would fit into the needs of our country. No effective legislation could be adopted without somebody being disturbed. Each of these groups would place its own little affairs above the interests of the country and that would make good legislation almost hopeless.

My courage has improved as time has gone on. In the early part of this year Samuel O. Dunn, who for 20 years has been a close observer of our carrier problems, said:

> There has never been any other important American problem regarding which so many interests and individuals showed so much hypocrisy and short-sighted selfishness as regarding our railroad problem, and it cannot be solved under private ownership, if this continues to be the case.

The United States has the greatest transportation system in the world. The total income of the American people is approximately $65,000,000,000 a year, and in the turn-over of that money they are now spending about $20,000,000,000 a year for transportation.

First, we have our highways, 3,000,000 miles in all. We have Federal regulation of their interstate traffic. About $15,000,000,000 of the $20,000,000,000 is paid for transportation on those highways.

Then we have the rails as another important part of our transportation system, 240,000 miles of railroad lines, with over 400,000 miles of track. This railroad system goes into every State in the Union. There are 27 States in each of which there are over 4,000 miles of rail lines. Their capital structure at the present time is about $19,000,000,000. Approximately $5,000,000,000 a year is paid to the railroads of the country for their services. The I. C. C. has regulation of all of the important rail lines.

Then we have water transportation as another part of our transportation system. We have the coasts on each side of the country, 2,000 miles and more from Maine around to the Gulf and 1,500 miles along the Pacific Ocean. We have the Great Lakes, also, with over 1,000 miles of shore line for our country. We have the inland waterways, 8,000 miles with a depth of over 9 feet and 5,000 additional miles with a depth of 6 feet. The people of the country are today paying $700,000,000 a year for the service on these waters. We have the pipe lines also.

Where should we sensibly and practicably place water regulation? Water transportation is either foreign or domestic. This bill, of course, deals only with domestic transportation in interstate commerce. Domestic traffic in the United States is intermixed whether it moves by water, highway, or rail. Visualize a map of the United States, a great line of water transportation along each shore, the Great Lakes, and the inland waterways with their 8,000 or more miles penetrating different sections of the country.

The regulation of the commerce on the rails is entirely with the I. C. C., that on the highways is entirely with the I. C. C., and that on ships is in part with the I. C. C. The ships that are railroad controlled are under the authority of the I. C. C. Where joint rates are established between water and the rails the rates are under the I. C. C. So, while the I. C. C. has regulatory power over 93 percent of our domestic interstate commerce, water transportation, which represents only 7 percent of what the people pay for transportation, is either unregulated or regulated partly by the I. C. C. and partly by the Maritime Commission. We have a constant interchange of traffic between the ships, the rails, and the trucks. This bill would create additional interchanges of traffic between water and rail. How absurd would be a system of regulation that would change the regulatory authority over traffic every time it changed from

or to land transportation. Why should a body representing water, with less than 7 percent of the domestic commerce, have the regulation of traffic interchanging with rail and highway transportation?

I believe everyone should agree that a rounded-out system of regulation requires that all these agencies be brought under common control. We cannot have one regulation of transportation competing with another, or have one type of transportation legally arrayed against the other, and expect to get satisfactory results.

Not long ago the Committee on Merchant Marine and Fisheries of this House favorably reported a bill. In the report it is said:

> The general objectives of the bill are to extend the regulatory jurisdiction of the Maritime Commission to apply to common carriers by water engaged in interstate transportation on inland waters and, with the systems for the regulation of water carriers thus rounded out and made national in scope, to provide a plan and means to effect coordination in the regulation of carriers subject to the Maritime Commission and the Interstate Commerce Commission where there is competition between such carriers.

This recognizes that common carriers on inland waters should be within Federal regulation. There is a disagreement as to who should do the regulating but not as to the fact there should be regulation. That bill proposes a sort of joint regulation, partly by the I. C. C. and partly by the Maritime Commission, with another intervening commission to iron out differences between those two.

The important fact is that here is the judgment of the Merchant Marine and Fisheries Committee that common carriers on the inland waterways of the United States should be within Federal regulation.

The plan of regulation proposed in our bill has three main principles logically written out on that basis.

The first is that the Interstate Commerce Commission, as a regulatory body, should have jurisdiction of all common carriers by water of the class within the realm of interstate commerce. In the second place, that the Interstate Commerce Commission should have control of the minimum rates of contract carriers in order to protect just competition between them and between common carriers affected by their services. In the third place, certain exemptions are provided. These exemptions are based upon the theory that the contract carrier exempted can carry the specified classes of traffic so much cheaper than land transportation that there is no substantial competition. Those exemptions relate to bulk cargoes as defined in the bill, the bulk carriers on the Great Lakes, and liquid carriers. Then the Commission is given a discretionary power to grant further exemptions where the facts show there is no substantial competition. Then, of course, there are certain exemptions of small craft that do not materially affect the main scheme of regulation.

As a basis for the exemptions provided in this bill, I would like to read, briefly, from a statement of Mr. Eastman, who is recognized as a great transportation authority. Speaking in reference to the proposed water-transportation bill of 1935, he said:

> We endeavor in this bill (Water Carrier Act, 1935) to give the Commission wide latitude in exempting those other forms of carrier from the regulation which is proposed, where it appears that the public interest does not require that regulation.
>
> I think I could undertake to say now that there is no need for regulation of certain types of these contract or private carriers. I think I would put first in that category the tankers that carry oil. That is a special form of traffic. I think I would be inclined to put in that category colliers that carry coal between certain points on the coast. I think I would be inclined to place in that category the contract and private carriers which operate on the Great Lakes, because the transportation which they perform is so cheap and the distances are so great that they are not really competitive with the railroads or with the common carriers on the Great Lakes which largely confine themselves to package business. And it may be that before the committee gets through with the consideration of this subject it would feel that certain of those classes of operation should be exempted in the bill. I did not feel it was wise to attempt to pick them out in advance, but that the Commission should be given broad authority in the bill to release from particular forms of regulation the contract or private carriers where it is shown to the Commission that there is no need in the public interest for that form of regulation.

So you will observe that this bill conforms pretty faithfully to those recommendations.

Here we have a competitive situation, a very important and to a large extent a new situation in our transportation system. Competition has always been a vital factor in our transportation but it has greatly changed in character. About 100 years ago it started in when the railroads were first put in operation. The Erie Canal had been built at a great expense by the State of New York and that State passed a law to prohibit the carriage of any property on a railroad in competition with the canal, except the baggage of passengers. A law was passed in 1848 requiring that a railroad that ran parallel with the canal had to pay tolls on the freight carried, the same as if it used the canal.

Later the rails became stronger, and they then turned on the canals and attempted to destroy water transportation on the canals. There were two methods of doing it. One was to try to control the boats and the other was to put rates so low that it destroyed water competition.

In the late sixties this war between the canals and the rails largely disappeared from the picture. In the sixties cattle were carried from Buffalo to New York for $1 a car, in the face of rail competition. Later cattle were carried from Chicago to Pittsburgh free of cost. They carried cattle for nothing rather than let the competitors get the business. In the eighties passengers traveled from New York to Chicago for $1. That was destructive competition. The shipper or the traveler got the benefit of it, but could anybody in the world endorse that as a system of transportation that would work out for the benefit of the country?

This is, I think, a safe conclusion from the history of competition. If we leave it to the carriers, one, in effect would destroy the other if it can. The disposition of men keen and aggressive in business is to outdo their competitors. That is a natural tendency. There is no use quarreling about it. It does not involve any question of personality and to try to drag an issue like that into a serious situation like this is trifling with the question. Generally ship owners and rail owners are of the same clay. Human nature I have found in every crust of society is about the same; when selfish interest is involved it asserts itself about the same. So when we legislate, we must legislate with that in view.

What is the present status from a competitive standpoint of the railroads? In the first place, we are confronted with these facts. There has been a rail traffic decline of about $1,000,000,000 a year, due to the depression. I am speaking in round figures, and it is manifest that nobody could state that they are exactly correct, but I believe they fairly reflect the situation. In the second place competition, largely of a new type, including water, motor vehicles, air, and pipe lines, have taken from the railroads transportation of approximately $1,000,000,000 a year. Competitive conditions have forced a reduction of many of the competitive rates, which have been reflected in the general average of rates, and in transportation income. That is, for a number of years, partly under the pressure of rail competition, we have this reduction in rates with a reduction in net income.

Since 1920 the railroad lines have introduced economies which are claimed to have reduced operating expenses over $1,000,000,000 a year, and yet the roads from an income basis, are poorer than when the economies were introduced. In the fourth place the increased cost of labor and material, taxes, and a forced reduction in the rates, have enforced losses that more than equal the economies introduced.

I also call attention to something of the economic picture as to the rails. Railroads, for instance, under normal conditions, spend nearly a billion dollars a year for materials and supplies. They take, under normal conditions, 16 percent of the total timber cut of the United States, 17 percent of the steel and iron, and spend $294,000,000 a year for fuel. They take forest products worth $104,000,000, iron and steel worth $359,000,000, and miscellaneous supplies that amount to $207,000,000.

Turning to the ships, what has been the situation? Two years ago, I believe it was, I was one of a delegation that

went down to see Mr. Kennedy, who was then head of the Maritime Commission. We were discussing this intercoastal shipping situation. Mr. Kennedy stated in substance that at that time a typical combination passenger and cargo ship going from the east to west coast and returning fully loaded would return "in the red." I had occasion a few years ago to check up to our intercoastal business by ships and I found it was substantially true, that on the whole those ships were making nothing. They were spending several hundred million dollars a year for labor, material, and supplies, and it was passing through their hands without leaving anything for them. To a large extent it was a duplication of what we have had in the railroad industry in recent years.

Looking at the situation generally, competition has greatly changed in the last 20 years. Twenty years ago the highways were simply feeders for the railroads and ships. Today the highways are very substantial competitors with the railroads and to a degree with the ships. Motor vehicles are now being paid for public transportation about $900,000,000 a year. Twenty years ago it amounted to little by comparison. In the last 20 years the Panama Canal has developed as an important factor. The Canal was completed after the war in Europe started, and it was not an important factor in transportation until after the war.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. LEA. Mr. Chairman, I yield myself 5 additional minutes.

Intercoastal shipping today serves the east and west coasts, and 65,000,000 people live near those coasts and have the service of that water transportation if desired.

In the meantime we have developed pipe lines that are being paid $200,000,000 a year for the transportation of oil. In that competitive situation which has become intense, an important problem in the regulation of transportation is due to that competitive situation. What we need is an umpire, a judge to be just and fair to each. We do not need an arbitration board. We do not need an advocate of one sort of transportation against the other. We need an umpire to see that that contest is conducted in a fair way. That is what we have tried to provide in this bill.

We hear the question of the subsidies discussed. We have a subsidy, we might call it a subsidy, for our highways. Our highway has been sustained very largely at public expense. Each man cannot build his own road. We all join together and build highways to serve the most remote sections of the country and the social and all the other needs of the population. That is, in a sense, a subsidy. It is noncommercial traffic largely. Of course, we have all been in favor of those highways.

Water transportation has also been subsidized. We have spent hundreds of millions of dollars to establish highways on the watercourses of the United States. There is some difference between the waterways and the highways. The waterways today have become purely commercial enterprises, competing with private transportation.

The Government provides the depth and width of the stream and also the maintenance. Suppose a storm comes, and a sand bar appears in the river, the owner of a vessel operated on the river for private profit, calls up Uncle Sam by telephone and says, "We have a sand bar in this river. Come down and remove it." Uncle Sam comes down at his expense and removes that bar for the benefit of private operators on the river.

Suppose a flood comes and it may damage a stream. It may cost a railroad company several million dollars possibly to restore the damage. In that case does the railroad, engaged in private transportation, call up the United States Army Engineers and ask them to come down and rebuild the railroad? Certainly not. The railroad must dig down into its own resources and repair its tracks.

Now, it is urged here that notwithstanding the fact that we contribute great sums of money to maintain these highways on our streams, they cannot submit to that regulation to which all other carriers are subject.

I have supported, as far as I can recall, every bill reported from the Rivers and Harbors Committee, every bill from the Committee on Merchant Marine and Fisheries; but now we are told that notwithstanding the fact that the Government provides the stream and provides for the maintenance of that stream, these water carriers are unable to submit to the same regulation as other private carriers. How can we justify that situation?

Here is a bridge constructed by a railroad company, according to the designs required by the War Department. Finally the War Department comes along and says, "Remove that bridge. It is no longer suitable." The railroad company must rebuild that bridge. It may cost it $500,000 or $1,000,000, but they have to pay it out of their own pockets. For what purpose? To accommodate the water transportation that moves up the river—its competitor. It must pay every cent of that, whether it gets one dime of benefit from it or not.

Some people talk as though we have a right to disregard the rights of every railroad. If a railroad wants anything, what is the use paying any attention to that? If we have several hundred thousand investors in railroad securities, what is the use paying any attention to them? I believe that a very important thing for the future of this country right now and for the years to come is for the people of the United States to have an honest appreciation of the man who invests his money in the productive enterprises of this country and who thereby becomes an employer of labor.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. LEA. Mr. Chairman, I yield myself 3 additional minutes.

Now, what is the situation about this subsidization? What is the transportation problem of the United States? How are we going to avoid Government ownership? Government ownership is just a form of subsidization. It does not help solve our problem. It lifts the burden from one place and places it more firmly upon the backs of the taxpayers of the United States. Do we not all recognize it is very difficult for a private industry to compete with a Government-financed industry that has no capital account to contend with? That is what we have in this present situation. I am not complaining about that, but I do say that these transportation agencies by water, that have been so helped by the Federal Government, ought not come here and object to submitting to that form of regulation, just and fair, that the Federal Government gives to the other transportation agencies of the country with which they compete.

Mr. AUGUST H. ANDRESEN. Mr. Chairman, will the gentleman yield for a question?

Mr. LEA. I have promised to yield to two gentlemen ahead of you.

Mr. AUGUST H. ANDRESEN. Just for a suggestion: Most of us desire to get information on this bill. We have enjoyed the gentleman's statement very much, but I would like to have some information.

Mr. LEA. I stated in the beginning that further on our committee will try to serve that very purpose.

Now, I want to refer for a moment to the Ramspeck resolution. That is embodied in this bill. It directs the Interstate Commerce Commission to make an investigation of certain freight differentials, and then to make the orders that are necessary to remove the unlawfulness of rates found to be unlawful. It further provides, in the provisions prohibiting discriminations, the protection of territories and districts. In my judgment that resolution is directed at what is one of the most important situations in rate structure. It points to a place in our rate structure where the greatest opportunity to help our transportation system on an economic basis lies. The correction of that condition would serve the interests of shippers and carriers alike.

Mr. Chairman, I yield myself 2 additional minutes.

Mr. O'CONNOR. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield.

Mr. O'CONNOR. Page 163 of the bill as it passed the Senate contains the following language under the subject of the unification of railroads:

The Commission is authorized to approve under certain conditions the unification of railroads.

I notice on page 208 of the House bill——

Mr. LEA. May I reply to that? The House bill provides for voluntary consolidation of railroads. In the case of ships and motors, it provides that consolidation may be made without a hearing, but in the case of railroads it must be after a hearing.

Mr. O'CONNOR. If the gentleman will pardon me, the language states that if the Commission finds certain things it shall do thus and so. In the present law the word "may" is used. In other words, the pending bill makes it mandatory upon the Commission instead of permissive.

Mr. LEA. But it is discretionary with them as to what they find based upon the facts.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield.

Mr. BROOKS. How do the provisions in reference to consolidation in the pending bill compare with the like provisions of existing law?

Mr. LEA. There is this difference: Under the present law it is the duty of the Interstate Commerce Commission to lay down the plan and submit it to the railroads. The pending bill would allow the railroads themselves to propose plans subject to approval, disapproval, or conditioned approval by the Interstate Commerce Commission when the Commission finds it in the public interest; and proper provision is made for employees.

[Here the gavel fell.]

Mr. AUGUST H. ANDRESEN. Mr. Chairman, will the gentleman yield?

Mr. LEA. I cannot yield; my time has expired.

Mr. AUGUST H. ANDRESEN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The gentleman from Minnesota makes the point of order that a quorum is not present. The Chair will count.

Mr. AUGUST H. ANDRESEN. Mr. Chairman, I will reserve the point of order for a moment to ask the chairman of the committee a question.

The CHAIRMAN. That cannot be done on a reservation of a point of no quorum.

Mr. AUGUST H. ANDRESEN. I believe that would be discretionary with the Chair.

The CHAIRMAN. The time for general debate is under the control of the chairman and ranking minority members of the committee. The gentleman from Minnesota may ask a question if time is yielded to him, but the Chair thinks it is not proper to do so under a point of order.

Mr. AUGUST H. ANDRESEN. Mr. Chairman, I withdraw the point of order.

Mr. LEA. Mr. Chairman, I yield myself 1 minute.

Mr. AUGUST H. ANDRESEN. Mr. Chairman, will the gentleman yield?

Mr. LEA. I yield.

Mr. AUGUST H. ANDRESEN. I may say to the gentleman from California that most of us on the floor are here for information. This is a big bill, filled with many technicalities. Most of us want to find out what is in the bill and the purpose of the bill. We have so far had a very fine explanation of some of the difficulties that confronted the railroads, but I think we are entitled to have information as to the contents of the bill itself and what it is proposed to do with the legislation, so that the Members may vote intelligently for or against the bill when it comes up for final action.

Mr. LEA. I think the committee is doing just that. The committee desires to do that.

The remarks I made I thought were a proper preface and preliminary introduction to the subject, which will be followed up by other members of the committee. Certainly the committee does not want to shirk its responsibility in any way.

Mr. AUGUST H. ANDRESEN. We just got the committee report this morning, yet the committee spent 10 weeks on the bill.

Mr. LEA. If between now and Monday the gentleman will study that report, I think he will find it instructive.

[Here the gavel fell.]

Mr. CULKIN. Mr. Chairman, will the gentleman yield?

Mr. LEA. I am sorry, my time has expired.

FAIR REGULATION OF WATER CARRIERS

Under the privilege of extension I insert a reference to sections in the bill which seek to assure fair regulation of water carriers; also memorandum as to regulatory powers over domestic water transportation:

In the declaration of policy (p. 198), which the Interstate Commerce Commission must observe in the administration of the Interstate Commerce Act in the regulation of carriers by railroad, by motor vehicle, and by water, the following language appears:

"It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act, so administered as to recognize and preserve the inherent advantages of each."

In section 307 (f) (p. 260) there is found the rule of rate making similar to the rule provided in the case of railroads and motor carriers, which requires the Commission to give consideration among other factors—

"to the need, in the public interest, of adequate and efficient water transportation service at the lowest cost consistent with the furnishing of such service."

In section 307 (d) (p. 259, lines 5–9, inclusive) the following provision appears:

"In the case of a through route, where one of the carriers is a common carrier by water, the Commission may prescribe such reasonable differentials, if any, as it may find to be justified between all-rail rates and the joint rates in connection with such common carrier by water."

In section 305 (c) (p. 253, lines 1–3, inclusive) there is a proviso to the effect that in any application to water carriers of prohibitions against granting undue or unreasonable preferences or advantages such provisions shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

REGULATORY POWER OVER WATER CARRIERS

JULY 21, 1939.

*Memorandum*

1. Interstate Commerce Commission has complete authority over common carriers by water owned, operated, or controlled by a common carrier by railroad.

2. Commission has authority to prescribe interstate through routes and maximum joint rates over railroads and common carriers by water, through the Panama Canal or elsewhere. (Sec. 6 (13) (b) of pt. I of the present act.) Such joint rates are under the Commission's jurisdiction when established.

3. Commission has no authority to establish any route or rate for transportation wholly by water (sec. 15 (3)) except as stated in (1) above; that is, it has no power over port-to-port rates by water.

4. It is unlawful for any railroad to own, lease, operate, or control any common carrier by water operating through the Panama Canal or elsewhere with which the railroad may or does compete for traffic.

Commission decides question of fact as to competition or possibility of such competition. It may grant authority to a railroad to continue to operate such water carriers which the railroad owned prior to July 1, 1914, or to install new service not in conflict with this law, where such service is not via the Panama Canal. In every case of such extension the water carrier is subject in all respects to regulation by the Commission. (Sec. 5 (19) to 21, the Panama Canal Act amendments.)

5. The United States Maritime Commission has authority over common and contract intercoastal water carriers via the Panama Canal as to both maximum and minimum rates.

6. The Maritime Commission has authority over coastwise common carriers on regular routes as to maximum and minimum rates by water.

7. The Maritime Commission has authority over common carriers on the Great Lakes on regular routes but only as to maximum rates by water.

8. The Maritime Commission has no authority as to certificates of public convenience and necessity or over permits to operate.

9. Carriers on inland waters (except the Great Lakes, as noted) are not subject to regulation except as to their joint rates with railroads.

Under the Dennison Act any common carrier by water operating or about to operate upon the Warrior, Mississippi, Columbia, Snake, Sacramento, San Joaquin, or Savannah Rivers, or their tributaries, may apply to the Interstate Commerce Commission and obtain a certificate of public convenience and necessity. The Commission then directs all connecting common carriers to join with such water carrier in through routes and joint rates, and prescribes reasonable minimum differentials between all-rail rates and the joint rail-water rates. (Sec. 3 (e) of the Dennison Act.)

The substitute bill repeals this provision (sec. 26, p. 238). Certificates already granted and joint rates already established would continue in effect. Inland Waterways Corporation and Mississippi Valley Barge Lines now have certificates and would not have to reapply.

The substitute bill gives the Commission power to fix reasonable differentials as aforesaid where justified (sec. 307 (d), p. 259, lines 4–9).

S. 2009 provides the Commission may, and shall when necessary in the public interest, fix the minimum differential which should apply where one of the carriers in a through route and joint rate is a water line. Otherwise the provisions as to through routes and joint rail-water rates are substantially the same as the substitute bill.

Mr. CULKIN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and eleven Members are present, a quorum.

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield 20 minutes to the gentleman from New York [Mr. WADSWORTH].

Mr. WADSWORTH. Mr. Chairman, let me say at the outset that with the exception of part III of this bill, I think the measure is an excellent undertaking, especially the provisions relating to the railways, the extension of help to the railways from the R. F. C., and other provisions. These I think are valuable. It is not my purpose to discuss them at this time. I desire to confine my remarks to a discussion or part III which relates entirely to the regulation of water-borne commerce.

I listened with interest to some of the addresses made on the rule, and I think it incumbent upon me at this particular moment to be candid. In the interest of candor and not as criticism, much less abuse, I cannot avoid expressing the opinion that part III for the regulation of water-borne commerce would not be presented to the Congress were it not requested in the first instance, and constantly, and persistently by the railroads. As I intimated a moment ago, I do not offer this opinion in criticism but as a statement of fact which I believe every member of the committee realizes. I have yet to identify any public organization of shippers, or producers, or of those engaged in water-borne commerce, any organizations of businessmen or of employees outside of the railway field that have requested the Congress of the United States to regulate water-borne commerce. It is a fact that there is no public demand for it.

The record of the hearings and the correspondence of Members will demonstrate, I am sure, the accuracy of that statement. That does not mean, of course, that the legislation is not entitled to very careful consideration. That is the kind of consideration I hope and pray will be given to it by the Committee of the Whole and by the House.

Let me, if I can, paint a picture of the inland water transportation as I see it. The traffic is divided generally into three classes. There is, first, the private carrier. He is the man or company that carries his own goods in his own vessel. He owns the vessel, loads his own freight in it and carries it to the destination desired by him at his own expense. He performs no public service, nor does he hold himself out to perform a public service.

Obviously he is not regulated by part III. Indeed, I doubt very much if the Congress has the power to regulate a private carrier, be he operating on the highways or on the waterways. The private carrier today carries something in excess of 50 percent of the tonnage on our rivers. Great tows of barges are made up, for example, on the upper Monongahela and go down the Ohio to reach ports on the Ohio and Mississippi clear down to New Orleans. Many of them are loaded with fabricated steel and other very heavy articles of freight. They are owned to a great extent by large corporations. I make no criticism of that, because doubtless the operation is justifiable from an economic standpoint and probably contributes to a cheaper product at the other end of the line.

The second category is the contract carrier. He is the man or company that owns a barge and carries goods for other people on contract. He may carry great bulky cargoes or he may carry any sort of package freight or other articles. Of all the tonnage on the inland waterways, as I understand it, the contract carrier moves about 40 percent.

The third category is the common carrier. He offers a service to the general public at published rates, doing his best to conform with scheduled operations. He carries about 10 percent.

Part 3 seeks to regulate both the contract and the common carrier. I would like to emphasize the function performed by the contract carrier, who already carries 40 percent of this traffic. In a very true sense he corresponds to the tramp steamer on the ocean. As doubtless you all know, the tramp steamer wanders around the world, plowing slowly through the seas, picking up cargoes wherever they may be found, and carrying them on contract from port to port. He is the regulator of the rates for high-sea commerce. Automatically the tramp steamer prevents the great established through lines of steamers from overcharging the public so far as freight rates are concerned. Should the big conference lines, so-called, in reaching an agreement among themselves as to what they will charge for carrying freight upon the high seas put the price too high, the old tramp drops into port and picks up the business at a lower rate.

Mr. MANSFIELD. And foreign ships under foreign flags will do the same.

Mr. WADSWORTH. The tramp goes all over the world, I may say to the gentleman from Texas, and he flies all the flags.

In a very true sense I think the contract carrier on the inland waterways performs exactly the same service. If the common carrier on the inland waterway charges too high a price for carrying goods, the contract carrier steps in and says to the shipper, "I can carry those goods at a cheaper rate. I will send a tow of barges over to you and carry that stuff for you to the port of destination under contract." He regulates automatically the rates on the rivers. In other words, the rates on the rivers today are regulated by competition, and it is free competition.

Mr. KNUTSON. Is that the case on the Mississippi River?

Mr. WADSWORTH. Yes.

Mr. KNUTSON. Not above St. Louis, I will say to the gentleman.

Mr. WADSWORTH. All the testimony we had before the committee was to the effect that the rates on the river systems generally are regulated by competition among the carriers themselves.

Now, we come to this bill which confessedly is designed to prevent for the future free competition on the rivers. It is designed to freeze rates, both for common carriers and contract carriers. For example, we will take a contract carrier who, in my judgment, holds the key to this whole situation. The bill provides that if he is to remain in business he must get a permit from the Interstate Commerce Commission to do so. There is where the paternalism starts—paternalism starting on the Father of Waters that up to this moment has flown unvexed to the sea. Having secured his permit and desiring to go into business, he files with the Interstate Commerce Commission his contract and his rates. The rates to be charged are made public. If that rate is low, any competitor—rail, motor, or water—may appear before the Interstate Commerce Commission and protest that it is a destructive rate. The Interstate Commerce Commission may suspend that rate for 6 months. The overwhelming majority of contract carriers are little fellows. They must then appear by attorney and with experts before the Interstate Commerce Commission and defend their contract rate against the galaxy of attorneys from the railways.

Finally a minimum rate may be fixed by the Commission and below that rate he cannot charge. He may make application that his minimum rate be lowered but the instant he does so, he is confronted with the attorneys of his competitors and if he is a little man, and most of them are, he simply will not try it. He cannot afford the expense of the litigation.

The thing I dread most in this bill is that by this paternalistic system finally to be established upon what hitherto has been a free waterway, free to any citizen to conduct commerce, the little man will be driven out of business. Take again this case of the contract carrier. Suppose he is on

the point of making a contract which will last a year with some big shipper to carry this freight, but he is held up by hearing in the Interstate Commerce Commission for 6 months or more.

What will the shipper do? The shipper cannot wait. The shipper will be tempted to build his own barge and become a private carrier himself, and thus be freed from the inconvenience growing out of regulation by the Interstate Commerce Commission. Already more than 50 percent of the tonnage is carried by private carriers. In my humble judgment, this bill is sure further to concentrate commerce on the inland waterways in the hands of the great and the powerful; it cannot operate in any other way. We cannot surround these little people with these restrictions, these impositions, and these requirements and expect them to hold their own against their large and powerful competitors. If we leave them alone as they are today they can live, and they are living. There is no demand from the inland waterways business for this regulation. It is regulating itself. There is no demand from the public, there is no protest from the public, there is no scandal, there is not even a nuisance; but we seem captivated by these paternalistic ideas that it is the duty always of government to regulate and regulate and go on regulating, until it seems to me sometimes that regulation is itself the objective rather than merely the good of the public.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield to the gentleman from Indiana.

Mr. HALLECK. Do I correctly understand from that statement that the position of the gentleman is that he is against the extension of regulation insofar as the water carriers are affected?

Mr. WADSWORTH. I said that again and again, and said it in the minority report.

Mr. HALLECK. Is that based upon the gentleman's general belief and views that such regulation is not in the public interest, generally speaking?

Mr. WADSWORTH. It is. That is my only reason for speaking here. I may be mistaken in my conclusions, but I believe this is not in the public interest.

Mr. WOLVERTON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield to the gentleman from New Jersey.

Mr. WOLVERTON of New Jersey. Is it the same reason that prompted the gentleman to oppose the regulation of trucks when that legislation was before the House in 1935?

Mr. WADSWORTH. It is.

Mr. WOLVERTON of New Jersey. So that would mean that the gentleman is opposed to any form of regulation of transportation?

Mr. WADSWORTH. No; that is a pretty wide assumption, may I say to the gentleman from New Jersey.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield to the gentleman from Arkansas.

Mr. TERRY. Does the gentleman feel that the users of the waterways of the country, whether private or common carriers, should pay some toll for the use of the waterways?

Mr. WADSWORTH. No; I believe that is entirely contrary to our tradition. I have always visualized our great rivers as belonging to all the people, free for their use without restraint, except, of course, in the interest of safety.

Mr. TERRY. Of course, the gentleman realizes that the Government pays out large sums of money to keep up the channels of the rivers?

Mr. WADSWORTH. Certainly; and I believe that is a sound public policy, where, of course, the money is expended on rivers where the traffic will eventually justify the expenditure. I do not believe we should abandon that policy. I would support appropriations for the improvement of a river whose traffic possibilities were good just as quickly as I would support appropriations for the deepening of New York Harbor. I make no distinction between them. Certainly no one would ever suggest that the ships coming into New York Harbor should pay toll.

Mr. TERRY. Of course, the deepening of New York Harbor is for the benefit of all forms of transportation within the country.

Mr. WADSWORTH. Certainly; and I put the improvement of inland waterways in the same category.

Mr. PATRICK. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield to the gentleman from Alabama.

Mr. PATRICK. Does the gentleman not agree that there was ample evidence before the committee to convince him that increasing numbers of barge lines and other methods of water transportation would come in and compete for the business, with the result that no one would make any profits, that in many cases they could not pay the men who worked for them, and that under such a situation the system would break down?

Mr. WADSWORTH. I did not gather the impression from the testimony that the inland waterway transportation business was bound for the bow-wows; no. There was evidence that some of them were losing money, but for Heaven's sake, are we going to legislate here so that everybody shall make money?

Mr. PATRICK. Is there any way that situation can be remedied except by regulation?

Mr. WADSWORTH. Only by regulation upward, and I am against that.

Mr. SOUTH. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield to the gentleman from Texas.

Mr. SOUTH. Is it not a fact that the leading European nations have gone much further than we have even thought about going in the matter of developing water transportation? Does the gentleman know whether or not that is true?

Mr. WADSWORTH. I am not thoroughly informed on that subject, I may say to the gentleman.

Mr. SOUTH. If the gentleman will permit, I should like to say that that is the case, and that instead of curbing further development they are constantly increasing it. May I ask the gentleman if he does not believe that the adoption of this provision will result in curbing the further development of our waterways?

Mr. WADSWORTH. Let me say in reply to the gentleman from Texas that I am not so concerned with the prophecies that the passage of this legislation will result in material increase in rates as I am that it will result in the hopeless retardation of the future development of water transportation. As I tried to say a little while ago, no longer will the little man go into that business. He is crowded out by these regulations. He cannot stand them. The traffic will fall into the hands of a few, and every time the little man tries to get into the business and obtain a certificate of convenience and necessity as a common carrier the powerful operators will combat his application, and he will find himself in the presence of the best legal talent his competitor can employ.

[Here the gavel fell.]

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield the gentleman from New York 5 additional minutes.

Mr. WADSWORTH. Then I would like to proceed with my statement.

During the past decade there has been a very substantial development in inland waterway transportation. This is the very purpose Congress has sought to achieve in the various programs of improvement of waterways which have been voted from time to time by this and preceding Congresses. Should this bill become a law there will be no new carriers for the simple reason that the restrictions of the legislation practically instruct the Commission to deny such persons certificates or permits if the Commission shall be of opinion that there are in existence sufficient transportation facilities to take care of the existing commerce. In other words, the rivers will no longer be free; only those may use them for commerce whom the Commission says may use them. This is a complete reversal of a traditional American policy. Think of it! Our rivers no longer free to

our own people who own them. Only those with a permit may sail them.

When any person shows up with an application before the Interstate Commerce Commission, the railroads will pounce upon it, protest it, ask for hearings and litigate it to the limit, and how can a small operator afford to undertake such a hazardous operation or procedure? Small operators cannot stand the burden and the strain of the litigation; and at the same time, to the extent it increases the cost of water transportation to the myriad of small concerns in the country, it increases the advantage of the large industrial organizations already owning and operating their own fleets. They, as private carriers, will be the beneficiaries of this legislation.

This explains in large measure, I think, the attitude of the Secretary of War and the attitude of the Secretary of Agriculture.

The American public wants our water transportation to be developed as a national system. It desires that such transportation be made available by joint through rates. It is true that the bill provides that through rates shall be established between railroads and waterways, but the restrictions imposed upon the waterways would make it unattractive to them, and I would like to call attention, if I have the time, to a provision of this bill which completely revolutionizes the waterways traffic.

It is provided here that if the owner of a barge or of a vessel charters that barge or vessel to another carrier, he, the owner, is still subject to this Transportation Act and all its regulations. Of course, that is not true with respect to a railway. A railway can lend its engines or its cars to another railroad and there is no responsibility thereafter for the operation of those cars or engines, but under this act, and it is rather cleverly put in, the charterer is subject to this act as engaging in transportation.

Mind you, this chartering is done in thousands of cases on the waterways and in coastal traffic. This bill proposes to upset it.

Let me illustrate what it does. A well-known, independent lumber dealer of the East came to me the other day and called my attention to the effect this would have upon the lumber industry. He said:

> We get large supplies from the Pacific Northwest. We do not own any steamers. We have to send out to the Northwest and when we purchase or contract to purchase a cargo of lumber, we charter a vessel from an owner out there, and under a contract with him, we bring it around through the Canal and up the Hudson River to Poughkeepsie, N. Y.

Under this bill the owner of that vessel is subject to the Transportation Act. What will happen? He will not charter it. How can you expect him to be responsible for compliance with this law when he charters his vessel to another? Under such conditions he will not charter his vessel to another. Today this chartering goes on all the time, not only in the intercoastal but the coastal and inland waterway business. It is an element of that flexibility which distinguishes commerce by water, and yet this bill would throttle it.

In addition let me call your attention to another thing in this bill. In the water commerce of today it is the general custom for vessels to perform both common-carrier and contract-carrier service. The owner may fill his vessel partly with a bulk cargo carried by contract and devote the rest of the vessel to the carriage of miscellaneous articles at rates published to the public. That this is a sound commercial practice cannot be denied. Moreover, it is another example of the flexibility of water-borne commerce so valuable to the public. And yet this bill forbids the practice for it provides that no operator can be a common carrier and contract carrier at the same time. Gentlemen, we would better explore this thing pretty thoroughly before we jump.

[Here the gavel fell.]

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield 20 minutes to the gentleman from Indiana [Mr. HALLECK].

Mr. HALLECK. Mr. Chairman, the question has already been asked as to whether or not I expect in the few minutes allotted to me to make a detailed explanation of this bill. I would like to suggest to every one of you, and through you to every Member of the House, that the report filed with this bill is about the best report I ever saw on any bill. It explains the details of the bill very, very carefully. Any Member reading that report can get a better idea of the details of the bill and what it attempts to do than could be obtained from any speech any Member could listen to made by anyone from the floor of this House. What I would rather do is to attempt to answer some of the questions that have been suggested to me by Members of the House during the time this bill has been under consideration.

Let me suggest, first, that the subcommittee of seven which considered the bill covers all sections of this country. The membership of 25 of the Interstate Commerce Committee covers all of the sections of the country and all of the interests of the country. That committee, as I understand it, stands 23 to 2 in favor of this bill. I have not been on that committee very long, but I think those of you who have been here longer than I, have confidence in that committee, and, to my mind, that is about the best recommendation for the bill that we could have.

When we started the consideration of this bill many of us understood there was an emergency transportation problem which peculiarly affected the railroads. We understood that the Government was to intercede in some manner calculated to improve the condition of the railroads to meet the critical emergency situation then existing. When the committee got into the consideration of the proposals, however, it concluded that the things that might be done to effect immediate assistance were rather limited. It was deemed advisable to bring about stabilization and coordination of our whole transportation system and unification and equalization of regulation to the end that the country—our people and the interests of all of our people—as well as all of our systems of transportation would be benefited and assisted on the long pull. That is what we tried to do in this bill, and I believe that we have done a good job of it.

The committee held exhaustive hearings. We did not listen only to the railroad people. We listened to everyone who chose to come before the committee to give us the benefit of his views.

Time and again the subcommittee issued committee prints of this bill. They were not broadcast generally, it is true, but those committee prints were submitted to representatives of water carriers and truck carriers and all other carriers and other interest generally, and their objections and suggestions were solicited. We got those objections and suggestions. We studied them. We called those representatives in and got their views personally. For what purpose? Not for the purpose of giving a sop to anybody, not for the purpose of soliciting support for this bill, but to the end that we could write a bill, and would write a bill, that would be in the best interests of the country.

Is there anything wrong with that procedure? Would you rather that your committee had had some brain truster downtown write a bill and bring it up here and rubber stamp it and bring it in to you to rubber stamp?

Someone suggested that this is not a modest approach in the matter of water transportation. If it is true that 18 percent of our commerce is water-borne, and 15 percent of it is exempted, is not that indicative of a modest approach in the matter of regulation?

It is said that we threw a sop to someone. Why were bulk carriers by water exempted? They were exempted because everyone recognizes that their carriage is so cheap that they are not in any substantial competition with any carrier. Why did we exempt the bulk carriers on the Great Lakes, and incidentally their exemption goes no further than the general exemption for all bulk carriers? Because we recognize that the Lake carriers carry traffic 70 percent of the mileage in many cases in joint operations with the railroads for 30 percent of the revenue. They are not in direct competition with the railroads. However, they are in direct competition with the Canadian carriers that have grown in importance to almost 50 percent of the traffic on the Great

Lakes—Canadian carriers, who by their own Canadian shipping act are exempted from regulation. Were not those things done in an effort to write a fair bill and bring a fair bill before you for action?

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I prefer not to at this time. We had a lot of trouble and controversy between the American Express Co., on the one hand, and the trucking people on the other over lines of abandoned railroads. There was in one committee print a provision that the truckers seriously objected to, and as a result you all got telegrams and letters. We called the people in and attempted to harmonize differences and work out a fair bill. That is the kind of a bill that you have here today. It is the sort of a bill that everybody in this House can vote for, and ought to vote for.

Our bill is mechanically different from the Senate bill, and in a word I would like to explain that to you. The Senate bill undertakes to codify the whole Interstate Commerce Act. We did not do that. Part I of the Interstate Commerce Act has to do with railroads and part II with motor vehicles. We amended those parts of the act in certain particulars and we added part III to regulate water carriers. We did that because we thought it would be a more simple, easy, and effective approach than to attempt complete codification. The bills in their fundamentals are very much alike.

The gentleman from New York [Mr. WADSWORTH], for whom I have the highest regard, by his argument convinces me that his real opposition to this bill stems from the fact that he is on principle opposed to the extension of regulations like this. Generally he says, "Who wants it?" Did you get a letter addressed to you from the Farm Bureau of the United States? I shall not take time to read it, but it quotes their executive committee as saying:

> The American Farm Bureau Federation recognizes that if the Nation is to avoid Government ownership and operation of railroads—

Against which they have declared—

> certain changes in present national policies providing for their regulation must be made. The provisions of the Transportation Act of 1939, as passed by a very substantial majority in the Senate, appears to be directed to this end, and, in general, seems to be in accord with the policy pronouncement of our organization.

Do they not represent shippers? I will take their advice as against that of Mr. Wallace, who writes us a letter, in one paragraph of which he says in effect that the transportation problem is just a part of our whole, general economic problem, and the way to solve it is to produce more. When, in heaven's name, did he develop that theory?

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I would prefer not to. When I get through, if I have time, I will be glad to yield.

Now, it is said this is a railroad bill. The proposals that were supposed to represent the ideas of the railroads were first submitted to the Congress by the so-called Committee of Six, appointed by the President of the United States, including three representatives of ownership or management and three representatives of labor. Would it interest you to know in connection with the assertion that this is a railroad bill just how many of the recommendations of the Committee of Six are in this House bill? There are just 4; 4 of 14.

Mr. SOUTH. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I just refused to yield to another member of the committee.

Mr. SOUTH. You need not yield unless you want to.

Mr. HALLECK. After I conclude I will be glad to answer any questions.

They proposed a national transportation policy. We have that in the bill. They proposed certain changes having to do with the reconstruction of bridges and other facilities. We have that in the bill. They proposed that we abolish these so-called land-grant rates. That is in the bill. They proposed some changes in the consolidation plan. We have that in the bill. We have some of their recommendations as to the jurisdiction of the Interstate Commerce Commission and as to the R. F. C. loans, and a little as to reparations. But here are some things that they wanted which we did not put in the bill.

My good friends in the railroad industry, management and labor alike, tell me this is not the bill they would have written.

They wanted revision of the rate-making rule. We did not put that in. They wanted repeal of the long-and-short-haul clause. We did not put that in.

Incidentally, the water carriers have been fighting that ever since it has been in Congress. The railroads wanted extension of the power of the Commission over intrastate rates. We did not put that in.

They wanted a transportation board to make a lot of recommendations about transportation generally in the country. We did not put that in.

Now, listen to this: The railroads argued with a lot of force before our committee that because waterways are subsidized by Government construction the people using them should be charged tolls. They wanted us to put that in the bill. We did not put it in the bill.

In view of that, who can stand in his place and say that our committee is undertaking to destroy water-borne commerce?

They wanted a separate reorganization court. We did not put that in the bill.

Thus it will be seen that this bill adopts only 4 of the 14 recommendations of the Committee of Six, concerning which there is little controversy. It rejects totally half, or seven, and adopts in modified form three of them.

Now, ultimately the question here is, Shall we regulate or shall we not regulate?

I do not care particularly to go into the theory of regulation of public utilities. Originally we undertook regulation to destroy monopoly; to give the little fellow a chance, and to bring about revision of rates downward, in the interest of the consumer. Since that time we have seen much governmental regulation seeking to effect a revision of rates or prices upward. After all, that is what the farm program is—looking to the revision of prices or rates upward in the interest of an ailing industry.

Whenever we undertake regulation of a utility, the Government must give that utility that is regulated some return; so we give them a franchise to operate, which takes the form of a certificate of convenience and necessity. We fix their rates. We fix them by Government operation, by Government agency, which is charged with seeing to it that the rates are fair and reasonable.

I understand that in an early day in this country the railroads were supposed to be something of a monster type, that undertook to destroy the rights of the people and the powers of government, and to discriminate against and trample down people, sections, and communities. I did not live in that time, and I do not really know just how bad they were. But I do not believe that is a very good argument in this controversy, because I am convinced there is an overwhelming demand among the people of this country for some such action as is contemplated in this bill. Why? Because they do not want to see the owners of railroad stocks and railroad bonds, the rights of people working on the railroads, the rights of people in other systems of transportation, sold down the river. They do not want to see any of them penalized.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. Yes; I yield.

Mr. WADSWORTH. Will the gentleman point out how this bill will help the railroads?

Mr. HALLECK. I suggested a number of recommendations of the Committee of Six that were included in the bill, that are of direct benefit to the railroads, and before I get through with this argument if I have time I shall point out to the gentleman and to all of the other Members of the Congress why this legislation in the long run will be of benefit to the railroads.

Mr. WADSWORTH. Part III?

Mr. HALLECK. Yes. Part III will be of benefit to the railroads and the water carriers themselves.

Now, some people believe in regulation and others do not, but I say to you that this country and our Government and our society is committed to a policy of regulation of utilities. Does anyone deny that? Then if we are committed to that policy, if that is our view as to the thing to be done, then how in heaven's name can it be said as a matter of fairness that one system of transportation shall be left free, outside of regulation, to carry on its operations, make any rates it wants, go any place it wants to, carry anything it wants to, against regulated carriers? I say that what is sauce for the goose is sauce for the gander. If we are committed to regulation, then let us have regulation.

Most people favor regulation of utilities. The strange thing to me is that the waterways are against regulation for themselves but for it for railroads. The minute you try to repeal the fourth section, the long-and-short-haul clause, to give the railroads a little relief from restrictive regulation, the water carriers are in here moving heaven and earth to defeat the relaxation of regulation. They want the railroads regulated right down to the raw, but they resent any move, even modest as proposed in this bill, looking to the regulation of water carriers. Is this fair? I believe the House is not going along with that proposition.

A great many of those opposed to this bill subscribe to the theory of regulation but they want the regulating done by some agency other than the Interstate Commerce Commission. I am against that, and I will tell you why: Regulation of competing agencies of transportation by different agencies of Government tends to develop competitive regulation. Here is what I mean. Suppose the intercoastal carriers going around through the Panama Canal are regulated by the Maritime Commission and the railroads by the Interstate Commerce Commission. The Maritime Commission becomes jealous of the rights of its people and cuts rates to try to get business. The Interstate Commerce Commission feels the same way about it for the railroads. As a result, it is a cut-throat rate proposition. That is the truth of the matter, Mr. Chairman. The representative of one of the greatest intercoastal carriers came into my office and said: "We cut the rate to try to get the business. The railroads cut the rate to try to hold it, and as a result we are all going broke."

I say that this unification of regulation is the very thing that will prevent these abuses.

Some say the Interstate Commerce Commission is rail-minded. I do not know whether they so argued when the Motor Vehicle Act was under consideration or not, but the people operating motor vehicles are not today complaining that the Interstate Commerce Commission is crucifying them in the interest of the railroads. Is not that the best test? Why argue a lot of fancies, a lot of imaginings, when the history and experience of the country establish the fact that regulation by the I. C. C. will be in the interest of the country and all systems regulated? I think there is another reason for the inclusion of water carriers under the Interstate Commerce Commission. I spoke a moment ago of the objections of the water carriers to the relaxation of any type of regulation. I would like to suggest to my good friend from New York who just preceded me [Mr. WADSWORTH] that in my view, if he thinks we have too much regulation and seeks relaxation of regulation, the way to accomplish it is to bring all these competing agencies under regulation, and then, if they think the burdens of regulation are too heavy, they can all join hands in bringing about a relaxation of regulation. Is not that good sense?

[Here the gavel fell.]

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield 10 additional minutes to the gentleman from Indiana.

Mr. HALLECK. Mr. Chairman, it is my firm belief that no general policy of relaxation can take place until all of the principal competing forms of transportation are under a similarity of regulation administered by the same Federal agency. As the situation now stands, should the railroads propose a general policy of relaxation affecting them, it would be assumed by all competitors that they were seeking and would probably gain an advantage. Opposition to the proposals of the railroads would be immediate, even though the competitor could not point out the exact manner in which the railroad proposal would affect its competitive relation.

One great value in the proposed legislation lies in the fact that it brings all competitors within the regulatory jurisdiction of the Interstate Commerce Commission. Thereafter, if each competing transport service feels that the weight of regulation is interfering with its best service capacity, it will naturally join hands with its fellow sufferers in an effort to secure such relaxation as may be needed by private management and yet fully protect the public interest.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I yield for a brief question.

Mr. DONDERO. Is any of the Canadian water-borne transportation under regulation; and, if not, why?

Mr. HALLECK. The Canadian Shipping Act of 1938 exempted the contract bulk carriers on the Lakes because of the peculiar competitive situation existing between Canadian and American carriers.

Some people have argued and have asked me in good faith if we were not coming in here to destroy the water carriers. Well, now, listen. This Government has spent millions and hundreds of millions of dollars to develop cheap economical transportation. No one would be so ridiculous as to seek to destroy this investment. The communities served by this transportation have a right to the continuation of this service. There is nothing in this bill which seeks to destroy that service. Rail transportation is the most valuable transportation because it is faster and more convenient. The water people will admit that. If a person had the same rate he would ship by rail rather than water. As a result the ceiling of rates is fixed by the railroads. The water carriers operate under that ceiling at a competitive point because their costs are less. This bill recognizes that differential and the reason supporting it. This bill provides for the continuation of that differential. I might refer you to the provisions of the bill but I do not want to take the time necessary to read them.

The declaration of policy demands of the I. C. C. that it administer this act to recognize and preserve the inherent advantages of each type of transportation.

Mr. SOUTH. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I yield.

Mr. SOUTH. Can the gentleman explain to the House what that expression means?

Mr. HALLECK. I think it has a very definite meaning. To me it means a recognition of the rights of the country to cheap and economical transportation by water, that there are certain advantages inherent in that type of transportation and that these advantages shall be preserved to the people of this country. I think you cannot read anything else into it. If you turn to page 259 you will find that in connection with joint rail and water rates the specific word "differentials" is used in recognition of that fact.

On page 260, in reference to the making of minimum rates for water carriage, this is said:

> They shall pay attention to the need, in the public interest, of adequate and efficient water transportation service at the lowest cost consistent with the furnishing of such service.

Does that mean anything to you or are we to assume that the Interstate Commerce Commission is going to throw all of those mandates out the window? Why, of course, the rates on water transportation will still be beneath the ceiling of the rail rates. They will continue to carry on their business.

But here is the situation that has existed: With the inland and other waterways unregulated, with the minimum rates of the intercoastal lines unregulated until 1938, the water carriers cut freight rates to try to get the business. The railroads cut their rates to hold on to the business. As a result no one is making money. Why, water carriers

appeared before our committee and in answer to direct questions said they were not making money. They are not prosperous.

The statement is made, "Why, you are going to take these higher rates out of the hide of the consumers and the shippers." Is it in the public interest of this country and of all the people of our country that our great transportation systems shall operate at a loss? That is not the theory of our Government, and if we are to have regulation of public utilities, then it is incumbent upon us to give a fair field and no favors to everybody in the business.

Mr. PIERCE of Oregon. Will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from Oregon.

Mr. PIERCE of Oregon. What is the object of this legislation? Is it not to raise more money for the railroads?

Mr. HALLECK. The object of this legislation is to coordinate and stabilize fundamentally all of the transportation systems of this country and to put them on a fair and equal basis and to preserve the inherent advantages of every type of transportation. You cannot read anything else in it in any line or at any place. This is a matter of equity and of fairness.

I know some people who have the advantage of water transportation where rail rates have been forced way down, who make the statement that this legislation may result in the raising of their rates. But there are people not so far removed from the district represented by the gentleman from Oregon who have no water transportation and who honestly and actually believe that they are making up the deficit of rail operations in other sections of the country, brought about by certain cutthroat water competition. This bill seeks to take out of our system cutthroat competition which is destructive of the interests of our people and of all carriers combined.

Mr. CULKIN. Will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from New York.

Mr. CULKIN. Can the gentleman point out one case in the history of our country where a waterway has hurt a railroad?

Mr. HALLECK. I just mentioned the intercoastal carriers a while ago. I never rode an intercoastal ship in my life. But when a representative of those interests tells me that in this cutthroat competition they have cut their rates down to where they are losing money, and the railroads followed, then I say somebody got hurt.

Mr. CULKIN. Does not the gentleman believe that people are entitled to lower rates for the transportation of freight?

Mr. HALLECK. I said a moment ago, and I want that made clear, I am for the cheapest possible rates that can be given for transportation, but I am not in favor of rates that do not adequately reflect a fair cost of the service and a fair profit for the people doing the job. I do not believe the gentleman does, either.

Mr. CULKIN. We carry grain across New York State by rail for one-quarter what it costs to carry it across the gentleman's State or across Montana. This is by reason of the existence of a waterway there. Does the gentleman believe that is immoral?

Mr. HALLECK. No; I do not believe it is immoral. But that is a bulk commodity, and it is exempted from the provisions of this act. That is the reason we wrote it in the bill. The gentleman understands that as well as I do. He knows I favored that provision and stood for it and I am still standing for it. I hope it stays in the bill. I am not seeking to gouge anybody, but I am saying that people in the transportation business ought to have a fair chance for their white alley, and that is all this bill is trying to give them.

Mr. JOHNS. Will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from Wisconsin.

Mr. JOHNS. May I call the attention of the gentleman to the hearings, pages 1240 and 1241? The barge companies seem to have been making money and increased their freight rates. They do not seem to have lost anything.

Mr. HALLECK. Now, I yielded for a question only. I realize there were differences of opinion, but when you get to pinning them right down you will find ample corroboration for everything I have said.

I cannot lay my hand on the names right now, but several Mississippi barge lines are not opposing this legislation. Some have tried to leave the impression that all water carriers are against this bill, but that is not the situation. I undertake to say that the contract carriers of bulk commodities on the Lakes and on many of the rivers and in coastal and intercoastal service are not in opposition to this bill. They will not come to ask you to vote for it, but I am telling you that as this bill is written now they recognize it is a fair bill and one that could properly be enacted into law.

[Here the gavel fell.]

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. HALLECK. I have talked about the water sections of this bill. That is not all there is in this bill. We have made revisions in part I of the bill. We have provided a change in the organization, a division of the duties of the Interstate Commerce Commission to expedite its work. Early in the game there was a proposal that we increase the membership of the Interstate Commerce Commission by six members. We reached the conclusion that we could better expedite their work by making it possible for boards of examiners and single members to handle some business. But where we did that we were careful to protect the rights of the litigant, to give him an appeal as a matter of right from any such decision in order that he might have the benefit and the protection of the decision of the Commission itself.

Something has been said about the alleged freight rate differentials of the South. I sat through all those hearings and heard the claims of the people who came there. I submit on the record of the hearings that when we finally got through with them the most they asked was some extension of the antidiscrimination provisions of the Interstate Commerce Act to apply to regions and sections. We wrote that in the bill. In addition, they asked a direction to the Interstate Commerce Commission that the Commission inquire into the alleged discriminations with a view to correcting them if any existed. That is all the people who came there asked us for, and I submit it on the record of the hearings.

Mr. HARTER of New York. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from New York.

Mr. HARTER of New York. Do I correctly understand that the gentleman's sole argument for regulation under part III is for the possible leveling off of rates or increase in rates?

Mr. HALLECK. No; of course, that is not my sole argument. The gentleman has done me the honor to pay very close attention to what I had to say. If I did not get anything more than that across to him, I am afraid I have done a pretty poor job.

Mr. HOUSTON. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I yield to the gentleman from Kansas.

Mr. HOUSTON. I have always supported in the years I have been in Congress the so-called long-and-short-haul clause. It just seems to me that the factions that are opposing this bill today are the same factions that oppose the long-and-short-haul clause. I wish the gentleman would tell me how they can reconcile those positions.

Mr. HALLECK. Does the gentleman mean the repeal of the long-and-short-haul clause?

Mr. HOUSTON. Yes.

Mr. HALLECK. Of course, it has to do with the effort of competitors to prevent relaxation of regulation when they are unregulated. They assume that any relaxation of regulation must be to their detriment, so they come in and oppose it. They want the absolute maximum of regulation on the railroads, but they do not want regulation of themselves. The only way you can relax regulation is to get them all in, get them all under regulation, and then when that day

comes you will find a more concerted and equitable effort in the direction of relaxation of regulation. [Applause.]

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield 15 minutes to the gentleman from Virginia [Mr. BLAND].

Mr. BLAND. Mr. Chairman, this question is so important and so far-reaching that it is impossible to discuss it in 15 minutes. I will try to remove some of the mists and clouds and fogs that have been unintentionally, I know, occasioned by the gentlemen who have been advocating the bill, and particularly in the closing remarks of the gentleman who has just spoken.

There has been repeated again and again the statement that the waterways oppose regulation. They are regulated to a very large extent. I am glad the gentleman has been educated since yesterday, because before the Committee on Rules yesterday he made the statement that transportation through the Panama Canal was not regulated. His attention was called then to the fact that by the bill reported out of the Committee on Merchant Marine and Fisheries in 1938, and in effect today, transportation through the Panama Canal, both as to common and contract carriers is subject to regulation by the Maritime Commission. Today hearings are being held by the Maritime Commission in practically every port in the United States for the purpose of determining questions with respect to the rates and other problems affecting transportation through the Panama Canal. The whole subject is under investigation.

Why so much talk about the Panama Canal? In 1936 seven principal western railroads carried 208,000,000 short tons of revenue freight and the common and contract intercoastal carriers carried but 7,500,000 short tons—7,500,000 as against 208,000,000. Admiral Land, Chairman of the Maritime Commission, points out that if this water traffic had moved by these western railroads it would have increased their tonnage by only 3.6 percent, and by reason of the low rates applicable to most of the commodities their revenues would be increased by an even smaller percentage.

I would also call attention to the fact that it is not the Panama Canal or the waterways that have reduced employment on the railroads. In 1920 there were 2,022,832 employees on the railroads, and this number had been reduced to 940,000 by 1938, a reduction of 53½ percent, while during the same period the number of ton-miles had dropped only 29 percent.

In other words, the greater proportionate reduction in the number of employees was caused by longer trains, larger locomotives, and improvements of that kind. The problems of the intercoastal carriers are mainly problems existing as between themselves, as Congress recognized in passing the Intercoastal Shipping Act, 1933, which gave the Commission a more extended jurisdiction over this class of carriers at that time than in the case of coastwise carriers.

The primary question before the people of the Nation today is not regulation of railroads or waterways, but securing the most reasonable transportation that may be given the people of the United States. The primary purpose of our legislation here should be that the legislation should be in the interest not of any particular form of transportation but in the interest of the people of the United States, in order that they may have the most reasonable transportation that can be afforded them, to the end that commerce may flow from one section of the country to the other. In the flow of commerce from one section of the country to the other and in the building up of stability in business and industry, all the problems that now confront the railroads will be dissipated and forgotten in a little while.

The regulation of the water carriers through the Panama Canal today is complete by the Maritime Commission. By the same act in 1938 regulation was given to the Maritime Commission over coastwise common carriers. However, a large part of the coastwise trade involves transshipment cargo; that is, cargo originating in or destined for foreign ports. If this is diverted or the cost increased, it will go to foreign-flag ships at the points of origin. As to inland common carriers, there is pending today before the Rules Committee—not so much because regulation is necessary as to meet the claim that regulation is needed—a bill for removal of certain language in existing legislation which will give regulation to the Maritime Commission over common carriers on inland waterways as well. That bill contains the further provision that there shall be a joint transportation board made up of two representatives of the Interstate Commerce Commission and two representatives of the Maritime Commissior, with a third appointed by the President, to the end that there may be a fair and a just and an honest effort to meet the difficulties and to remove any injustice between railroad and common carriers on inland waters.

I submit that that measure would furnish a determination of disputed questions, not by a railroad-minded commission in the interest of the railroads, nor by a waterway commission in the interest of the waterways, but by another body consisting partly of both and a third, which would afford a method of reaching a fair and a just and an honest solution, if a solution is needed of particular difficulties in this great problem.

I wish to call the attention of those who are interested in waterways to the size of this bill. I would call their attention to the fact that 51 pages of this bill of 108 pages deal with waterways transportation, yet it is supposed to be a railroad bill. I would direct your attention to the fact that they say the term "water carrier" means a common carrier by water or a contract carrier by water, and then they go on to tell you what kind of vessel is going to be regulated. The term "vessel" means any water craft or other artificial contrivance of whatever description which is used or is capable of being or is intended to be used as a means of transportation by water. Well did the gentleman from New York [Mr. WADSWORTH] say that this bill would result in wiping out the small transportation companies and carriers. Well might he have called attention to the fact that the fishing vessel that goes over to a port and brings back coal or commerce of some kind to some place not supplied with railroad transportation is subject to the regulatory features of this bill on every kind and character of waterway.

Mr. Chairman, are we prepared to vote for a measure of this kind? That part of the bill should be studied by a committee familiar with this kind of legislation. What does this bill do? They have not told us, and in all reverence I say, God only knows what it does do to the waterways of the country. They say in here—subsection f on page 247—that nothing in this part shall be construed to affect any law of navigation, admiralty jurisdiction of the courts of the United States, liabilities of vessels and their owners for loss or damage, or laws respecting seamen, or any other statute of maritime law, regulation, or custom not in conflict with the provisions of this part. This language implies that something in this part may be in conflict with those laws. Do you know what is in here that may be in conflict with those laws?

I do not know, and the committee here cannot tell us, to what extent they will affect these people. It is utterly impossible to do that. Back in 1935 the great chairman of this committee, the gentleman from Texas [Mr. RAYBURN], realized that measures of this kind should come before the Merchant Marine Committee. On February 26, 1935, there was transferred on the floor of this House, by the consent of the Congress, from the Interstate and Foreign Commerce Committee to the Merchant Marine and Fisheries Committee of the House a bill similar to this part of this bill, and it was further provided that hereafter all bills relating to or affecting transportation by water carriers, regardless of the fact that they may amend an act originally considered by the Committee on Interstate and Foreign Commerce, should be referred to the Committee on Merchant Marine and Fisheries. Mr. RAYBURN made that request. And now, by a process of legislative legerdemain, or I might say by a process of legislative larceny, this bill is brought in in such a way that we cannot require that the part relating to water carriers shall go to the committee to which this House in 1935 said it should go—that is, to the Merchant

Marine and Fisheries Committee of the House. However, this House can accomplish that result by striking out waterway carriers and putting waterway carriers where they ought to be—in the committee that knows something about them. We insist that this course should be followed. We submit that the House, on the unanimous-consent request made by the present majority leader [Mr. RAYBURN], recognized in 1935 that questions pertaining to waterways should be referred to the committee having peculiar jurisdiction over such legislation.

The request of the gentleman from Texas [Mr. RAYBURN] was made upon the authority of the Committee on Interstate and Foreign Commerce which seeks to undo in 1939 what it did voluntarily in 1935. If you do not wish consideration by the Merchant Marine and Fisheries Committee of all of the matters in this bill, and I do not want them, and if you think the entire bill should be considered as a whole, then you will find pending before the Rules Committee a resolution providing that in the consideration of a bill such as this a special committee shall be formed to consist of two men from Interstate and Foreign Commerce, two men from Merchant Marine and Fisheries, two men from Rivers and Harbors, and three men from the Committee on Agriculture. I say without hesitancy that after 18 years' service on the Merchant Marine Committee it is impossible for me even now to say what is in the bill or its effect.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. BLAND. I cannot yield, as I have only 15 minutes.

Do you believe the Secretary of War would have made the vigorous protest he has; do you believe that the Secretary of Agriculture would have made the vigorous protest he has; and that these gentlemen would have registered their protests as they have or that the Maritime Commission would have protested if they had not believed they were acting in the interest of the people? Read their letters and you will admit, I believe, that they were protesting not in the interest of the waterways, not in the interest of railways, but in the interest of the people of this country who are entitled to transportation at the most reasonable rates they can get. We wish, Mr. Chairman, not to destroy, but to build. We wish to restore commerce and then we will lift this country above the depression that has caused the railroads so much trouble.

Well did Senator SHIPSTEAD say in the minority report that he filed on this bill that it will not help one man on the railroads, and it will only increase the distance between the caboose and the engine. On the other hand it will throw out of work many seamen of the country, longshoremen, and similar employees in the interest of what? Not of giving employment but in the interest of transferring commerce from the waterways to the railroads. Something was said about passengers through the Canal. The Canal has contributed to the transportation by the railroads. Look at the tourist travel. Look at the number of opportunities furnished and taken advantage of in the United States for tourists to pass through the Panama Canal one way and use the railroads the other way. I ask you, gentlemen, to study this bill. The gentleman from New York [Mr. WADSWORTH] has pointed out some of the defects. I have tried to show you how absolutely far reaching it is. With all of the red tape incident to regulation by the Interstate Commerce Commission and with all of the accounts that must be rendered, and all of the work that must be done in filing reports, the small carriers cannot survive. As to foreign commerce, I have been told today by the representative of a line engaged in foreign commerce that, after carefully studying the bill, he cannot say what effect it will have on the service of that line, and that his company has informed him that it must hold up its plans for construction of two ships until they know what the bill will do, what the relation of the Interstate Commerce Commission bill is to their service, and what regulations that Commission will put into effect if this bill is passed and that Commission has any control over that commerce. The situation is precarious in the extreme.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. PITTENGER].

Mr. PITTENGER. Mr. Chairman, I ask unanimous consent to extend my remarks and to include therein a short letter from Mr. Whitney.

The CHAIRMAN. The letter part of that request will have to be granted in the House.

Mr. PITTENGER. Mr. Chairman, this bill that is before us in my opinion is one of the most important measures we have had presented at the present session of Congress. There are over 100 pages of a new bill and all of the Senate bill has been stricken out. Senate 2009, which is now under consideration, is the bill to which I refer. It was only yesterday that printed copies were available, although I believe a few copies were available the day before.

The first thing I want to point out about the bill is the fact that we are asked to act and vote on a measure that was just prepared 3 or 4 days ago, without opportunity on the part of the Members of the House to make a study of it, and without opportunity to consult the people who use the waterways and our various transportation systems, as to how legislation of this character would affect them in the future.

I represent a territory where water transportation is all important. I refer to the Lake Superior region. I live at Duluth, Minn., which is at the head of the Lakes. The people of that territory are vitally affected and vitally concerned with any legislation that has to do with their transportation rates.

I have listened to the debate this afternoon and I am not opposed to legislation that will benefit or help solve the railroad problems of this country. I supported the repeal of the so-called long-and-short-haul provisions of the railroad law, and I actively supported what was known as the Petengill bill in a former Congress. I have worked for other legislation to help the railroads out of their difficulties, but I have never supported and I do not believe I have been called upon to vote on a piece of legislation which would put any form of water transportation under the Interstate Commerce Commission—an agency that ever since its creation has been charged with the duty of rate making and the making of freight rates for the railroads of the country. The very heart and purpose of this bill is to regulate water transportation. Various arguments are used. They say that the railroads are entitled to have the water carriers regulated, but that it is not going to hurt the water carriers. Then the question was really appropriately asked on the floor of the House if there is not something in this bill that will help the railroads, what do you want to bring the water carriers under it for? It seems to me that the problem of water transportation and the problem of its regulation is a problem for a commission or a Government agency that is not shaped and framed for railroad problems and whose policy looks to the making of rates for the benefit of the railroads. The dockets in the I. C. C. are filled with complaints of shippers, with fights between rate-making agencies and railroads on the one hand and the shipping public on the other hand. As the gentleman from New York [Mr. WADSWORTH] so ably pointed out, when you venture on this new field, no one knows where you are going to stop or what will be done to the shipping public and to the consuming public. As I repeat, I am glad to help the railroads in the solution of their difficulties, but I do not think it ought to be done at the expense of the water carriers. I do not know of a single request that has come from the shipping public or from the people who use the waterways for this type of legislation.

And so I repeat, Mr. Chairman, that this legislation is too important to be acted upon in a hurried or hasty manner. I would like an opportunity to forward copies of the proposed bill which the House committee has just written to shippers and other people in Duluth and other parts of the district who are interested in this legislation. No such opportunity has been afforded me. In my opinion action on this proposed

legislation should be deferred until the next session of Congress. I do not think the present procedure is conducive to good sound legislation. I realize that there have been hearings before the committee, but the general public has not been advised as to how the transportation question will be affected by these proposed changes or by the new regulations which will, in my opinion, revolutionize the whole transportation structure. If there are abuses in waterway transportation, they should be corrected by some agency of the Government which has for its purpose the study of that question. This should be an entirely separate matter from the subject of railroad rates or railroad regulations.

As has been pointed out on the floor of the House this afternoon, there may be a lot of sections in this bill which appear to be harmless, but which time and study will show are very far reaching and as a consequence may work damage to people who have built up business or industry based upon the present rate or transportation structure in the United States. I believe that the present bill is one of the first steps in a program to deprive the people of this country of the advantages of water transportation, which in the past has always been cheap and economical. There is no other agency for a long-distance movement of bulk commodities that can handle the problem as economically as the waterway-transportation system. I believe that people who live inland, considerably removed from lakes or rivers, are going to be just as vitally affected if this new legislation passes as people who live in river towns or on lake ports. Anything that is done to hamper and curtail and make more costly water transportation is surely going to increase the expenses of getting manufactured products to the consumer, and just to that extent the cost to the consumer is increased.

I believe that Congress will pass legislation designed to remove handicaps under which the railroads now operate, but I repeat that the way to remove those handicaps is not to present similar handicaps on the water-transportation system on our lakes and rivers and on our ocean coasts in the United States.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. LEA. Mr. Chairman, I yield 15 minutes to the gentleman from Texas [Mr. SOUTH].

Mr. SOUTH. Mr. Chairman, I am sorry to find myself not in agreement with our distinguished chairman. The gentleman from California [Mr. LEA] has worked hard and patiently, being fair to everyone on the committee and to all witnesses who appeared before the committee. He, as well as other members of the subcommittee who have considered this bill, certainly deserve the thanks of each Member of Congress. There are two or three provisions in this bill, however, which I think should be amended. Something has been said about eliminating the differentials that exist in certain parts of the country. Some of us have had much to say about it. I am one of those who has said a great deal about it. That is because in the section of Texas which I represent we pay from $1.60 to $1.85 for the same transportation that those living in the official territory pay $1 for. That is not right. Nobody has ever been able to justify it. Everyone who has made a careful study of the question knows that the present rate structure is neither based upon rhyme nor reason, that it is a hodge-podge which has grown up over a long period of years, and ought to be revised and perfected.

Now, let us see what this bill does for our section. The language on page 202 offers a sop to the rate-differential problem, and after instructing the Interstate Commerce Commission to study it, which it now has the authority to do, and which it has already done over a long period of years, winds up by the very generous and magnanimous statement that they shall have the authority to study the rate structure as it relates to manufactured products. How many of you gentlemen knew that that was the very liberal concession made to those of us who do not live in the official zone territory? They shall make a study of that portion of our transportation problem which is included in the expression "manufactured products." Well, the sheepmen in my district, the greatest wool-producing district in the United States, so far as I know, do not ship any manufactured goods out of the country. The great cotton producers of my district, although they produce and transport hundreds of thousands of bales of cotton, do not transport any manufactured goods out of that district. The great stock raisers in my district and in other districts that are discriminated against do not ship any manufactured goods; they do, however, ship a vast amount of raw products—goods not manufactured. Yet this bill proposes to do what? It proposes to let the Interstate Commerce Commission study that part of the problem that relates to manufactured products. I submit to you that "manufactured" ought to be stricken out and let them study our whole transportation problem, and grant such relief as the circumstances warrant.

Not only can Texas, and many other agricultural States, never hope to become important States industrially while this situation prevails, but our farmers and ranchmen are finding it increasingly difficult to prosper, while paying more than their just share of transportation charges.

Mr. BULWINKLE. Mr. Chairman, will the gentleman yield?

Mr. SOUTH. Not unless I can get more time. I am sorry.

I am also opposed to that provision of this bill which proposes to repeal the land-grant provision. You will be, too, if you will study it carefully, I believe.

In the beginning of railroad construction and for some years thereafter the Federal Government ceded to the railroads approximately 132,425,574 acres of land, and they entered into a contract with the roads that as a part of the consideration therefor the railroads receiving such grants would transport Government troops, Government men, and Government materials free. That was the consideration, and the Supreme Court has held that it was a valid contract, based upon a valuable consideration (*Burke* v. *Southern Pac. Ry. Co.*, 234 U. S. 669). Later on it was agreed that the Government should pay 50 percent of the total cost. That is what they are paying now. The railroads have not only sold most of that land and under the provisions of this bill will keep the entire proceeds, but they now have vast areas of such land, some of which is now producing oil in large quantities and some of it is valuable timberlands. They do not propose either to return the consideration for the land which has been sold, or to return the land that they now hold. In other words, they propose to abrogate that part of the contract which requires them to give the Government the concession which they agreed to give, but they propose to keep every cent of the consideration paid by the Government for that right. I submit to you if you can go home and explain to your distressed farmers, to your distressed workers, and the distressed taxpayers of this country why you made that outright grant and donation to the railroads, then you are a better explainer than I am, or than I want to be.

I do not believe that water should be placed under the regulation of the Interstate Commerce Commission. Our American waterways, which are Nature's gift to our entire people, make possible our cheapest form of transportation. Out in my section, where we are already paying too much, if we are deprived of the joint rate, or the combinate rate, which we got on goods shipped from the Northeast, and elsewhere, down to the ports of Houston, Galveston, Corpus Christi, and other Texas ports and then sent inland by rail, our rates will certainly be much greater than we are able to pay.

Now, my friends, they have told you that only two members of the committee view this proposition as I do. That may be true, but I submit to you that in the Senate of the United States, 22 Members voted to strike out this provision, and both distinguished Senators from my State not only voted to strike out this provision, but voted against the bill on final passage. Why? Because they believed as the

Secretary of Agriculture believes, and as others interested in agricuture believe, that the farmers of this country will pay the increased cost which will result.

Why do they want water placed under this regulatory body? Because the railroads of this country have asked for it. Have you heard of any shippers coming before Congress and asking that water be regulated? Has anybody said that water is charging too much for transportation? No. Who is asking for it? The railroads of this country began asking for it 50 years ago, and they have been asking for it ever since. Some day they will slip it through, perhaps this time; but I would call your attention to the fact that in 1920, when this same measure was pending, the distinguished chairman presiding over this committee, the gentleman from Texas [Mr. JONES] was one of the leaders in the fight against placing water under the regulation of the Interstate Commerce Commission. Because he knew it would be an added burden upon the farmers of this country, and a burden which they could ill afford to bear.

The Secretary of Agriculture has expressed this view with clarity in a letter to Speaker BANKHEAD, dated June 15, 1939. I quote from his letter:

> Unfortunately, the railroads seem determined to find a solution for the admittedly difficult financial situation of certain rail carriers without regard for the more general solution; in fact, from their public statements it would seem that they are seeking to solve their difficulties at the expense of agricultural and other shippers, consumers, and taxpayers.
>
> Farmers and other shippers should not be required to pay rates based on transportation costs of properties improvidently built, wastefully operated, or partially obsolete. Any effort to improve the condition of the transportation industry should be harmonized with the general welfare. The advocacy of thorough regulation of the minimum rates of motor and water carriers by a centralized agency appears to represent an attempt to use Government power to bring competing transportation agencies into a cartel, and, in this manner, to share traffic and adjust rates in such a way as to earn a return upon all transportation capital of these agencies. Hence, an umbrella would be held over the inefficient plant, and the present high rail rate level would be protected from the impact of vigorous competition. Undoubtedly such a policy would also result in more rigid rates in times of depression, since the motor carrier and boat line could no longer play their role as an effective competitive force in bringing down rail rates on commodities susceptible to rail or truck and rail or water movement.

This is the statement of the Secretary of Agriculture, Mr. Wallace, whose duty it is under a recent law passed by this Congress to represent the United States at rate hearings and therefore presumably an expert on rate matters.

I commend to your consideration, also, the following statement by the Secretary of War, contained in his recent letter to Chairman LEA:

> As far as this Department is aware, there is no dissatisfaction on the part of the public with the transportation service afforded on the inland waterways; charges are fully compensatory and there is no destructive rate warfare as between carriers.
>
> It has not been possible to find in * * * this bill a single proposal that the railroads do anything whatever toward the amelioration or improvement of their own situation. All the provisions seem designed to free them from restraints and obligations, while imposing prohibitive tolls and restrictions on their water competitors and making it more expensive for the public to move freight. Under these provisions inland water carriers can easily be regulated and taxed out of existence without the recapture of enough tonnage to affect railroad earnings appreciably.
>
> It is essential to realize that water transportation is unlike all other forms of carriage. It is the aggregate of thousands of small independent operators on the inland waterways which gives the character, furnishes the natural regulation, and automatically enforces the fair practices required in this type of transport. But it cannot sustain for long the concerted attack of powerful competitors not because it is not basically sound but because every resource of a powerful adversary has been brought to bear to prevent its becoming established on a normal basis. The remarkable fact is, not that there is so little water-borne tonnage, but that so large a volume actually seeks the waterways in the face of the most determined efforts to prevent it.

This is what Chairman Land, of the Maritime Commission, says about this provision:

> It proposes to expand and change the method of regulation of water transportation, not on the theory that the public using the water carriers demands or would be benefited by such regulation but on the theory that the present economic situation of the railroads require the form of regulation of water carriers provided for in this bill. I think that from your own experience in Congress you will arrive at the conclusion that there is no demand for the enactment of the present bill on the part of shippers or the general public.
>
> As a matter of fact, farm organizations, shippers, and their trade associations are alarmed at the proposals which the bill contains and sincerely believe that its passage would be detrimental to their interests. The farmers and other shippers in particular are convinced that the effect of the present bill would be to force water transportation rates to levels closely approximating those of rail rates and higher than necessary to reflect the reasonable cost of water transportation, and that they, the users of water transportation, would be footing the bill for the sole benefit of the railroads.
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> The seven principal western railroads carried 208,000,000 short tons of revenue freight in 1936 whereas both the common and the contract intercoastal carriers by water together carried 7,500,000 short tons. If this water traffic had moved by these western railroads, it would have increased their revenue tonnage by only 3.6 percent, and by reason of the low rates applicable to most of the commodities their revenues would be increased by an even smaller percentage.

Let me remind you again, the railroads are asking for this regulation, not the shippers.

One of my railroad friends told me in Del Rio last year that I had a perfect voting record for last session, where railroad labor was involved. I do not know where he got his information, and I did not know that it was correct. I have not looked it up since, but presumably it must have been pretty good, or he would not have said this. I want to be fair to labor, and this is not a fight against railroad labor. If this bill is passed railroad management will get the benefit of it. Only 3 or 4 percent of our total tonnage is involved in this matter. By a slight lengthening of the trains, as we have pointed out in our minority report, they can and probably will absorb the little added tonnage involved, and the same men will do the work. No, railroad labor is not greatly concerned about the outcome of this controversy.

I do not want to appear to be harsh toward railroad management. They have had their difficulties. So have the steel companies of this country and various other industries, including the automobile manufacturers. What do you think a Ford, a Chevrolet, a Plymouth, or a Buick automobile would cost if the Government regulated the automobile companies to prevent so-called cutthroat competition, about which we are hearing so much in this debate? Cutthroat competition. What is cutthroat competition? Does Henry Ford have cutthroat competition in the manufacture of his automobiles? Does Walter Chrysler have cutthroat competition in the manufacture of his automobiles? They certainly do; and yet because they have not been regulated, because we have not stifled the initiative and the resourcefulness of the men who are in charge of this great industry, but have permitted and encouraged keen competition, they have furnished us cheap automobiles. The United States Government, with all of its regulatory bodies, with all of its boast of fairness and efficiency, has never managed a single business that I know of so well as these concerns have managed theirs. That is not all.

The Government is today in many cases either reaching out for more power and demanding more regulatory authority, as in this instance, to prevent fair and legitimate competition, on the one hand, or is threatening prosecution for some alleged violation of the antitrust law on the other, where it is contended competition does not exist. These two propositions do not jibe.

What is the matter with the railroads? Not enough regulation, say the gentlemen who sponsor this legislation—regulation for their competitors, mind you. That is what it amounts to. Regulate water transportation. Why? In order that the railroads may successfully compete with water. What kind of regulation will that require? It will require constantly raising water rates. No other kind of regulation will do the job which they want done. Not a single man has said that water rates are too high, so it is not likely they will be revised downward, they will be revised upward.

Who is going to pay this increase? The shippers of the United States must of necessity pay it first, and ultimately the producer and the consumer. So, Mr. Chairman, I suggest that the membership study very carefully this proposition before giving the Federal Government additional regu-

latory power to harass and discourage industry and commerce, which in many cases are now suffering from too much regulation. [Applause.]

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield such time as he may desire to the gentleman from Kansas [Mr. HOUSTON].

Mr. HOUSTON. Mr. Chairman, last year the President of the United States, recognizing the financial condition of the railroads of the country, appointed a committee of 15, representing various groups interested in transportation, as a committee to consider our transportation problems. Following that meeting, the President appointed a committee of three which made recommendations to the President, and upon that report the bill, S. 2009, which has been passed by the Senate and amended by the House Committee on Interstate and Foreign Commerce is based.

The purpose of this legislation is to improve the Nation's transportation system and this bill is no hastily prepared or inadequately considered measure. Committees of the Senate and the House have held extended hearings on the subject and it is my belief that the bill in its present form constitutes the best approach to the regulation of all interstate transportation that has been formulated.

What the country needs is the best system of transportation that can be provided and one which will utilize every means of transport, whether rail, water, highway, air, or pipe, to the best advantage, each in its proper place, and with a maximum of cooperation and a minimum of uneconomic duplication and waste. Now, one great trouble, as I see it, is that while transportation is a very live subject and there is plenty of talk about it, the talk is mostly by partisans. Each form of carriage has its own particular watchdogs, and to make the melee still hotter there is another line-up of the watchdogs of the investor, of labor, of shippers, and of communities. The only interest which has lacked a watchdog has been the general public interest. I am trying to occupy a small part of that vacancy and living in hope that I shall not be chewed up in the attempt.

The problem is even something more than a transportation problem. Take the railroads. They still form, as is so often said, the backbone of our transportation system. Their health is essential to sound transportation health. But they also constitute one of the largest industries of the country and are normally among its largest consumers, particularly of capital goods. The railroads suffer when general business suffers, but this statement is equally true if reversed. From another angle, their securities have in the past had such a high place in the investment market that they are to be found in the portfolios of practically all fiduciary, educational, and benevolent institutions. In one way or another most of the people of the country have a financial stake in the railroads. Serious and widespread impairment of their securities therefore has far-reaching and demoralizing consequences quite apart from any transportation effect.

I bring this out not with any idea that on these accounts the railroads should be given any favored treatment over their competitors, or that they do not have any sins of commission or omission to answer for, but simply to show the importance in this instance of a square deal and of protection against any uneconomic development in transportation which cannot be supported from the point of view of the general public interest.

There has always been keen and widespread competition in the railroad field between the railroad themselves and with the water lines. Now, the railroads are beset on all sides by the further competition of the private automobile, the truck, the bus, the airplane, the pipe line, and the electric transmission line. If transportation which is competitive ought not to be regulated, railroad regulation could be reduced to very small proportions, and there is strict logic in such a proposal if the entire field is not to be covered by sane and comprehensive regulation. However, I am sure that the country does not want any such thing. If you will read your history, you will find that Federal regulation of the railroads was precipitated much more by the abuses of competition than by the abuses of monopoly, although both entered in. Owing to the rapid growth of other forms of transportation and our failure to cover the entire field with regulation, we now have a situation very like that which caused railroad regulation.

What the country needs is the best and cheapest combined system of transportation consistent with fair treatment of labor and with earnings which will support adequate credit and the ability to expand as need develops and take advantage of all improvements in the art of transportation. This system must be in the hands of reliable and responsible operators whose charges for service will be known, dependable, and reasonable and free from unjust discrimination. Unregulated competition will destroy instead of provide such a system. If experience teaches anything, it teaches that, and there is no escape from the consequent conclusion that the whole system must be brought under centralized control.

This control must concern itself with planning and prevention as well as with the cure of evils after they arise. It must deal with the future provision of new facilities, with the proper coordination of those which exist, and with the development of sound general policies affecting both service and rates. It must prevent unjustifiable duplication and waste; promote the use of each agency of transportation, in cooperation with the others, primarily in the service to which it is economically best adapted; check the forms of endless chain rate-cutting or service promotion which have come to be known as destructive competition; and protect the public against unreasonable charges and unfair discrimination.

In concluding, let me say that there is, in my judgment, no more important problem before the country than the transportation problem, and few that are more difficult to solve. I do believe, however, that the country is beginning to appreciate its importance and to see it in its entirety, and not merely its edges and angles and pieces. The essentials of the problem are beginning to come to light, and the need for dealing with it on broad lines and through some centralized and comprehensive form of control. Ultimately we shall find and apply the answer. We must think not solely in terms of railroads or waterways or highway vehicles or airplanes but in terms of transportation, and keep in mind the only important end, which is the general public interest.

Mr. Chairman, the Transportation Act of 1939, amending the Interstate Commerce Act, as amended, and extending its application to addtional types of carriers and transportation, may not be the final answer to our transportation problems, but it is designed to better the present situation and has my unqualified support.

Mr. LEA. Mr. Chairman, I yield 10 minutes to the gentleman from Alabama [Mr. PATRICK].

Mr. PATRICK. Mr. Chairman, perhaps it will be a good idea for a minute to glance at the national transportation policy upon which this bill is drafted. I will not give you the whole policy, but simply state that it is to cooperate with the several States and the duly authorized officials thereof to encourage fair wages, equitable working conditions, and to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as all other means whatever to meet the needs of the commerce of the United States, and so on. This has been an honest and sincere effort on the part of this committee to pursue the inspiration of that policy. Whether we have been able to do it or not, you are the jury to hear the facts and determine. Bear in mind there are 25 members on this committee. With one or two slight exceptions—and modesty precludes my naming them—strong men. I recommend that you study the personnel of the Committee on Interstate and Foreign Commerce. Oh, I know one or two have departed from the fold, and I must confess they are men of ability, students, men whose work on the committee has proven them capable. I am, however, particularly interested in the case of the gentleman from Texas [Mr. SOUTH].

He came up there one bright morning espousing the cause of Professor Splawn, of the University of Texas. He proudly puts the doctor on the stand and gloriously recommends him and states that we will hear the very gospel of truth when

he takes the stand. We heard him. We were greatly influenced by the contribution of Professor Splawn to the hearing. But Professor Splawn comes out recommending not only the land-grant provisions of this bill, as you will find them on pages 57 and 58 of the hearings, but the water provisions of the bill as set forth by section 3. Later on we find the gentleman from Texas [Mr. SOUTH] toward the latter part of the hearings, getting a little timid. Now we find him—and he has the right to do it—signed up with the genial, capable, and highly esteemed gentleman from New York [Mr. WADSWORTH]. The two have filed a sort of adverse or minority report.

Mr. SOUTH. Will the gentleman yield?

Mr. PATRICK. I yield to the genial gentleman from Texas.

Mr. SOUTH. When the gentleman votes in favor of repeal of the land grants, as I presume by his remarks he is going to do, what excuse is he going to offer to his people for the railroads to retain several million acres of the 134,000,000 acres that the Government gave them for a reduced rate, and which the gentleman is going to vote to abrogate? Why not let the railroads return the 12,000,000 acres they now have, since they have sold 122,000,000 acres and are no longer going to give the Government the benefit of the rates they contracted to give it?

Mr. PATRICK. I see the position which the gentleman constructs for me, but the gentleman is an able lawyer. I will consult him, and I am sure he will be able to give me some counsel, if it is commensurate with his defense in this case, that will put me in right with my folks.

Mr. SOUTH. The gentleman is going to repeal that provision.

Mr. PATRICK. I cannot suffer.

Mr. CULKIN. Will the gentleman yield?

Mr. PATRICK. I cannot yield. I want to cover what little I have here in the time assigned to me. The reason I yielded to the gentleman from Texas was because I nominated him and I did not want him to feel too badly.

Mr. Chairman, the purpose of this bill is to try to regulate, as we must in enacting legislation of this kind, for the general good of the country. We know, of course, that the railroads have been charged with many practices that were iniquitous, whether true or not. We know that many things could be said that would probably tend to make some Members a little heedless and maybe ruthless in legislation of this kind. But let us try to remember that we are in this case legislating for a sweeping proposition involving 130,000,000 people. This is not a program applied to certain transportation companies particularly. It is applied to the whole picture of transportation, even in its logic and in its sweeping effect; and with all the wails and calls we have heard, we have failed to hear one logical reason advanced why, if we must regulate the railroads, the busses, and trucks in the country, we should not, by the same token, regulate water transportation. When we come to a thing of that kind, when we try to investigate, as we had to do in many cases, when we empower the Interstate Commerce Commission to go into the structure of hauling in this Nation, why do we suddenly come to a "sacred cow" and fall on our knees and salaam and begin paying tribute to it because it is the waterways?

Whenever you go into the whole picture you have to do that. You have to go into the thing in full detail. The Interstate Commerce Commission may determine and report the value of property owned and used by every common carrier. The purpose of that law is to get the facts and, having gotten all the facts, to know the facts, so that it will go into law. That is what this legislation seeks to do. Know the truth and the truth will set you free.

Mr. SOUTH. Will the gentleman yield?

Mr. PATRICK. I cannot yield. We will talk it over privately. I think I can heal the gentleman's wounds.

That is the way it must be handled if it is capably and fairly done. We come back to the argument presented by those who come here and say, "Let us alone. Let the rivers alone. Bind and fetter the railroads. Bind up and hold fast with bands of steel the motor transportation, but let our rivers alone." Then they get patriotic and grow eloquent with logic and arguments that smacks so heartily of the same arguments that were advanced when they came up in the past and said, "This is a free America. We cannot regulate the railroads." It sounds like the railroads' argument made at that time being presented in opposition to railroad legislation and the creation of the Interstate Commerce Commission. They concede now that many things they fought the hardest have grown up to be most advantageous to them. This same procedure must be followed in the case of water transportation. The question is asked, "What is the little fellow going to do?" As a matter of fact, when you go into this, when you follow any sort of regulatory measure, it is regulation for all the people. It is not a matter of getting at any of the little folks or supporting the big ones. It is a matter of getting a program that will be for the general benefit of the entire Nation. This thing works itself into the fabric of a matter that is becoming more important to America every day. We must face it if we are going to take care of labor and if we are going to take care of the people who buy and sell in this Nation; we are certainly coming to one thing, whether it is an item of transportation, an apple on the market or a bed blanket. We must figure and work out a basis in this Nation so that every commodity that goes on the market, whether a locomotive or pack of needles, so that every person who contributes to it gets a living wage.

If it is a woman who picks the cotton or spins the thread or works out the spool in a spool of thread or stands behind the counter, everything on the open market, from the time it begins to turn over in trade to the end of its journey, must contribute a living wage to those who were a part of its movement and exchange. Any steamboat line that fails to do this is a burden to the public and an enemy to transportation development and recovery. This law seeks to aid in relieving the country from the evils of cluttered-up transportation and to bring order from the chaos now prevailing. Someday the river men will look up from the chunk-chunk-chunking of their paddle wheels and call this committee blessed.

When you do other than that, whether it is an old barge line or whatever it is, then you are helping to destroy the very structure that we must keep safe and sound if the Nation survives. It is these little corner-cutting propositions, in my opinion, that have hurt us and have injured transportation and have helped to bring about a condition that threatens the transportation structure of this Nation. [Applause.]

[Here the gavel fell.]

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. JOHNS].

Mr. JOHNS. Mr. Chairman, I had the privilege of reading the report of the committee that was appointed by the President of the United States to study the transportation problem and I found it most interesting and informative.

I believe that 90 percent of the reasons the railroads are in the condition they are today is that they have had entirely too much regulation. I have lived long enough to see the railroads of this country regulated from the time they were prosperous until today 33⅓ percent of the railroad mileage of the United States is in the hands of receivers. It is no wonder, of course, that the waterways feel that they do not want this regulation; that is natural, because they have stood by and seen what has happened to the railroads.

The railroads are to blame in large part for their present condition because they failed to take advantage of the advance of time, the improvements of transportation. They had their rights-of-way, they had their equipment to go ahead and compete with any other mode of transportation you might have had in this country; but instead of doing something, they let the man who had a few dollars go out and buy a truck on the installment plan, and he went out and took this business away from the railroads. They were not entirely to blame for that because, I am informed, if they started a proceeding before the Interstate Commerce

Commission for relief it took them a long period of time before they could possibly get any order from the Commission to do anything.

As a businessman, I have had experience with the railroads and with the truck companies, as well as with transportation by water. I stood by for nearly 3 years and waited for the railroad companies to be able to deliver promptly at the door of jobbers in cities products that we were producing, and in the meantime I saw the truck companies take most of this business away from the railroads. So the condition that exists today is due in part at least to the failure of the railroad companies to do what they should have done in time.

This report referred to does not show much about the income of the waterways, but it does tell about the income of the railroad companies and what their losses have been. However, I call your attention to page 1240 of the hearings of the Interstate and Foreign Commerce Committee on this legislation, where it is shown that the waterway companies, at least on the Mississippi River, have been prosperous; that they have made money at the same time the railroad companies were losing money. We cannot blame the railroad companies because the water-transportation companies have made money; neither can we blame the water-transportation companies because the railroads have lost money. This is an age in which we require that commodities be delivered fast, and the American public has reached the point where they insist on prompt service. The transportation company that is able to give that kind of service is going to get the business in this country. It does not make any difference whether it is the water companies, the truck companies, or the railroad companies. The railroad companies have discovered that, of course, and they are now competing with the truck companies. The waterways will never be able to compete with the railroad companies or truck companies as far as delivering freight promptly is concerned, so that they must devote themselves entirely to their own transportation facilities. [Applause.]

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I yield 10 minutes to the gentleman from Colorado [Mr. MARTIN].

Mr. MARTIN of Colorado. Mr. Chairman—

> But yesterday the word of Caesar might
> Have stood against the world; now lies he there,
> And none so poor to do him reverence.

So it has happened to the railroad, once the industrial king of America. Now the jackass may kick the sick lion, and an opponent of economic royalism can stand on the floor of Congress and plead the cause of the railroads without having the finger of suspicion pointed at him. How have the mighty fallen, and that is about as low as they could fall.

Mr. Chairman, in my brief time I cannot undertake to discuss the provisions or the mechanics of this bill. I must leave that to the very able subcommittee which labored for 3 months to bring forth legislation for joint regulation under the Interstate Commerce Commission of the competing forms of transportation in the United States—rail, motor, and water, which is demanded by the deplorable conditions existing in the field of transportation, and due, in part, to unregulated competition. I know that the very able and competent chairman of the Committee on Interstate Commerce, the subcommittee, and the committee as a whole have labored to preserve each agency of transportation embraced in the bill in the field best adapted to its particular mode of transportation and to deal fairly with each of them, to the end that each may make its proper contribution to the transportation needs of the country, and on a basis of "live and let live." I believe this legislation is a more than fair beginning toward that end.

Railways and motorways in interstate commerce are now wholly under the control of one governmental agency. Waterways are partially but ineffectually under the same agency. This legislation simply proposes to complete the operation, and do, if we can, for transportation what we are trying to do for government by reorganization legislation.

If my contribution to this debate shall stress the importance and value in the national transportation field of one of these agencies, it is not intended for the purpose of injuring the others, but, rather, to overcome, if I may, what appears to me to be an underappreciation—indeed, a prejudice—against one of these forms of transportation, to the injury of this incomparably most important and most valuable of all forms of transportation.

If I may make any contribution to the consideration of the great measure before the House, involving more than $30,000,000,000 of capital investment, which contribution will be a bit different, from the standpoint of treatment of the question, and a bit helpful in enabling the Members of the House to see the whole picture of the transportation world in this country, with each phase of the picture in its proper relationship to the picture as a whole, I will feel that I have done something to enable some Members to form a proper judgment, and to see the justice and necessity of the establishment of a principle which the country now generally recognizes—that of the joint control in one regulatory body of the three forms of transportation dealt with in the bill.

My major premise will be that the great railway structure of this country, incomparably the greatest in the world, with 240,000 miles of trackage, and a capital investment of $24,000,000,000, is not only incomparably the principal but the only indispensable agency of transportation in the United States.

Tomorrow morning every ship on the inland and intercoastal waterways of the United States could be tied up at the docks and the country as a whole would not miss them. But if the wheels on the rails were to stop, the country as a whole would be paralyzed. This statement is supported by undisputed transportation statistics, by the uniform statements and admissions of the advocates of water as against rail transportation, and by the history of experience. I shall put in the last proof first.

During the period of the World War, the railways alone handled not only all the normal traffic of the United States but the extraordinary traffic of the war emergency. At the time of the World War the intercoastal lines through the Panama Canal, deserted that traffic en masse for the more-profitable trans-Atlantic traffic; and at the time of the World War motor transportation was not even a negligible factor, and was practically not in existence, as an agency of transportation. The railroads, unprepared as they were, unwarned by any past experience which might foreshadow to them and to the country the forthcoming of such an emergency—the railroads carried the load alone.

History could repeat itself. Tomorrow the ships could disappear from the intercoastal traffic. And the trucks, valuable though they are, disappear from the highways, except in local service, and the railroads would meet every urgent need in transportation. Bear in mind, I am not presenting the case of that agency of transportation which some interests and some areas think ought to receive last, not first, consideration, in the preservation and upbuilding of a self-sustaining transportation system in the United States. I am not building up a showing to support a claim that the other forms of transportation should be discriminated against or that the railways should be shown favoritism. I have in mind the sole purpose of stressing the vital necessity of giving the railways a square deal, as compared with their competitors, and this is all they are entitled to.

I started to say that history could repeat itself. It not only could, but would, repeat itself, given the emergency. If a world conflict broke out tomorrow, the railway structure of the United States would be its chief, incomparably its chief, transportation arm of the national defense, as it was in the World War. The ships would go out of the Panama Canal as they did before, and the trucks would supply only a moiety of the suddenly enormously increased volume of traffic that would be imposed upon our transportation system. We have now in this country eight transcontinental railway systems with their tens of thousands of miles of cross lines and feeders. They should be

preserved and strengthened. They should be rendered and maintained fit to meet the emergency. They are not only as indispensable to the national defense as the Army and the Navy, but they come before the Army and Navy. Without them, the Army and Navy could not move, and all the inland and intercoastal ships could not supply any of the requirement, and all the trucks could not supply 1 percent of the requirement.

The Congress is busy building up the Army and building up the Navy, spending now more than a billion dollars a year, not one dollar of which will ever return. It is spending nothing to build up the railways, the first arm of the national defense. They are already built, but they are, in a measure, standing still, and going into bankruptcy and receiverships, one-third of them now there, for the want of revenue. Revenue not merely to pay for overcapitalization and overdebt, and there is an overload of these, but for the want of revenue to meet their actual expense of operation. If there are ways in which to remedy this situation it behooves the country to be about it.

I want to turn now to some statistics showing the comparative importance and value of the railway and waterway structures of the country in the field of transportation. I shall not need to confuse you with figures. These figures will deal with the proportionate traffic value of rail and domestic water transportation, excluding the Great Lakes, which traffic is exempted from this measure. I have taken them from the testimony before the committee, of Dr. Walter M. W. Splawn, of the Interstate Commerce Commission.

Let me divert here to say that two representatives of the Interstate Commerce Commission appeared before our committee on this legislation—Mr. Joseph B. Eastman and Dr. W. M. W. Splawn. In this vast and complex system of government, it is reassuring to me to know that it has such men in its employ. It is an education to listen to these men. I have no hesitancy in saying that what Mr. Eastman and Dr. Splawn say goes a long way with me.

Dr. Splawn stated that in 1937 the railways of the country carried 363,000,000,000 ton-miles of freight as against 110,000,000,000 ton-miles by waterways, of which only 17,000,000,000 was inland and intercoastal water-borne traffic, the Great Lakes being excluded from this bill. Reduced to percentages, the inland and intercoastal waterways carried 4.7 percent of freight as compared with the railways. Intercity trucks carried thirty billions, or 5.5 percent, or more than the waterways.

As an agency of freight transportation the waterways are shown to be worth less than 5 percent of the railways. That the addition of this small percentage of water-freight traffic to the total value of railway traffic would be negligible to the railways, and that it could all be handled by the railways without the addition of a locomotive or freight car, and with an inappreciable addition of employees, has been iterated and reiterated by every representative of the water lines of the United States who has appeared before the Interstate Commerce Committee since I have been a member of it.

Not only that, but they have iterated and reiterated that the addition of water-traffic income to railway-traffic income would be negligible. When Major General Ashburn, president of the Inland Waterways Corporation, appeared before our committee against this bill and made such statements I interjected that similar statements had been made by all representatives of the water interests before our committee, and that this repetition raised in my mind the question, What is a thing worth that is not worth anything? Their claim that the water lines are the transportation salvation of the United States but that the total volume of their traffic and also their income would not materially help the railways simply added up in my mind, not to the answer, but to the question, What is a thing worth that is not worth anything? While water-borne traffic is not 5 percent of rail-borne traffic, its income is not 2 percent. Unquestionably it is the cheaper form of transportation. How it is that it can be cheaper I will come to later.

Many Members question the yardstick of T. V. A. in the measurement of the cost of power production. I am not an authority on that. Nor am I an authority on transportation costs. But some facts have been forced on my attention which have raised in my mind more than a question as to the reliability of the water yardstick as a measurement of the cost of its own transportation. I will come to that later.

Another comparison between these two forms of transportation which must be taken into consideration, if we are to deal justly between them, is the respective value of their investments. The figures given by Dr. Splawn were: Rails, $24,000,000,000; water lines, $3,800,000,000. Reduced to percentages, water lines are 16 percent of rail lines. The motor investment was given as: Trucks, $510,000,000; busses, $255,000,000; total, $765,000,000. Added to water lines, we have a total investment of $4,300,000,000, as compared with a railway investment of $24,000,000,000, or only 19 percent. All of them combined are still under 20 percent of the value of the railway systems of the country.

Another comparison is afforded by the respective operating expenses and taxes of the two agencies of transportation which raise the only issue in this bill: Railways, $4,400,000,000; waterways, $1,000,000,000.

Now, as to the cheapness of water transportation. It is conceded that water is the cheapest method of transportation, but I shall now undertake to show briefly that this is, in large part, due to differences for which the water lines are entitled to no credit, and which emphasize the justice of placing them under joint regulation with the railways in the matter of rates and charges. Nature furnished them free waterways—the oceans, the lakes, and the rivers. They are made fit and maintained fit for navigation out of the Public Treasury. They are harbored, channelized, and leveed out of the Public Treasury. In one bill, in the Seventy-fifth Congress, we authorized more than $600,000,000 for the improvement of rivers and harbors for navigation. The House at this session passed a bill carrying $83,000,000.

The water lines pay no taxes on their ways. They pay no maintenance. They are as free to them as the air.

The railways must buy and build and maintain and pay taxes on their ways. Even their rights-of-way are taxed as real estate. All that is necessary to embark in water traffic is a boat, and the Government has given away a lot of these. To engage in railway traffic, hundreds of millions of dollars must be spent in the building and equipment of a single line of railway; the acquisition of rights-of-way, the building of the trackage and the terminals, and all the fixed and permanent facilities and equipment pertaining to railway operation; and then, as I say, they are taxed for these ways and instrumentalities the same as any other property, and they should be taxed. If all the costs that are involved in furnishing and maintaining absolutely free ways were taxed to the water lines, it is a question how cheap their transportation would be. Indeed, it is a question whether there would be any inland water transportation. The cost would be too enormous to be borne.

And even with all the advantages furnished them by nature and the Government, they cannot compete with the railways in a free, open field. In order to compete, they must, in addition to all these other advantages, go largely unregulated, while the railways must be regulated and restricted at every turn, and prohibited by law from competing with the water lines. And on top of all this, with free ways maintained by the Government and unregulated, the water lines have existed only through Government subsidies. The waterways have always been a Federal relief project. Instead of being the cheapest form of transportation, they are the most expensive. They are only cheap because the great bulk of the cost of water transportation is borne by the Federal Government.

As compared with the railways, they are favored by cheap labor, the cheapest transportation labor in the country. The railway employees in the operating department are among the highest-paid workers in the country. Testimony before the subcommittee of the Interstate Commerce Committee, in hearings on the Pettengill bill, showed that rail wages averaged twice as high as water wages, and four times as high on the basis of tonnage handled per man. Railway

employees rate high in the standard of citizenship. They are American citizens almost wholly. They are taxpayers. They own good homes in all the towns and cities of the land.

Sea labor is almost the opposite; more than half of them aliens. Harry Bridges is a natural product of water transportation.

If he is an outlaw, he is bucking an outlaw game, and he is legitimate. Read the testimony of grand old Andrew Furuseth—peace to his ashes—for 50 years the head of the American seamen—a grand character; a true son of the vikings—before the Interstate Commerce Committee for the story of the seaman, the type he is, and the conditions under which he exists, afloat and ashore. This is the type of transportation service and the type of men in the interest of which some Members of Congress and some areas would cripple the railway structure of the country and keep it in hobbles, while its competitor goes free.

The water lines claim, and I concede, that if the railways were turned loose, as the waterways are, subjected only to the present waterway type of regulation, the waterways could be put out of business. I make this proposition now: That if the railways had their choice between putting the waterways under joint regulation or being freed from the restrictions which tie them down, or even if they could be measurably loosened, there is no question what their choice would be. And if this proposition were put up to the water lines, there is no question what their choice would be. They would be running to Congress for joint regulation.

The country has wisely made the decision. This bill is not before the House simply at the demand of the railways. It is here mainly in answer to the demand of the country, the very necessities of the situation, that coordination and stability be brought into the transportation service of the country, with a view to conserving all of them; with a view to protecting them, not only from each other, but from themselves, if it is within the power of legislation and government to accomplish this result. The attempt should be made, and under this bill it will be made.

Railroads have been Government regulated for 50 years. Three years ago motor transportation, which is much more important to the country than inland-water transportation, was placed under the same control, and placed there with its approval, and its experience is that it has benefited, and that order and stability are being introduced into motor transportation. But there is a local interest demand that water transportation be exempt and continue as a charge on the Public Treasury, with a roving commission as its charter.

They say joint regulation will increase the cost of water transportation. The best answer I have heard to this was made by the representative of the great lumber interests of the State of Washington, appearing before the Interstate Commerce Committee in behalf of railroad-relief legislation. When asked how it came about that a representative of an industry peculiarly adapted to water transportation and accessible to such transportation was appearing in behalf of the railways, his reply was that his industry required something besides cheap transportation, that it required a market, and that formerly the railways supplied 75 percent of that market and now only 25 percent.

I believe this law will be administered fairly by the able Commission, with its great background of experience and service, to which it is to be entrusted, and I can find no more fitting conclusion to my remarks than to quote a paragraph from a statement made to our committee on this bill by Commissioner Eastman:

> The Commission believes in the equal and impartial public regulation of all important forms of transportation, and is also confident that much can be done to stabilize and improve conditions through proper use of the power to fix minimum rates and of the power to control the right to engage in new operations; but I think I reflect its opinion when I say that there is no reason to believe that such policies will be any more beneficial to the railroads than to other types of carriers.

[Applause.]

Mr. WOLVERTON of New Jersey. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I am sure, as has been so often repeated here this afternoon, that we all want to help the railroads. I come from a district where there are many railroad men, a district where many railroads center; but I also come from a district where there are many persons who are not employed by the railroads or not interested in the railroads either financially or otherwise. I come from a district where there are also many shippers who are interested in fair and just and equitable rates and in a rate structure which will protect the industry and the commerce and the trade that is left to protect in my section of the country.

I do not know just what the percentage is of the people on one side or the other of this question, but as I have received letters, telegrams, petitions, and other communications regarding this question I estimate that possibly we can affect and perhaps benefit a small percent of the people temporarily by passing this bill and putting this act on the statute books, but at the same time we will be doing something, if not detrimental, then of a questionable value as regards the welfare of the best interest of the other much larger group of the people. So as I study this problem I have come to ask myself, "Am I to serve the interest of the small group or the greater interest of the larger group—in other words, the general welfare of the general public of my section and of your section?"

I have read the report of the President's Committee of Six, set up to study the railroads' problem. I have read it very carefully. In fact, I have studied it day after day since coming here on January 1, and after that study my conclusion is that that committee was thinking only of their own little problem and their own little affairs and had forgotten the rest of the Nation and its people and welfare. I have also reached the conclusion that their recommendations are based on fallacious assumptions and reasoning, and if I had more time—which I requested of the committee, but which, due to the fact that our time is limited here, I could not get—I could take this report of the Committee of Six apart, paragraph by paragraph and page by page, and show you exactly what I mean and point out to you the fallacy on which they base their arguments.

You heard it said this afternoon by my distinguished colleague from Indiana [Mr. HALLECK] that the Interstate Commerce Committee of the House has put in this bill only four of the things which this Committee of Six recommended. Well, perhaps, they put only four things in, but as I read this report of the Committee of Six, I find, essentially, there are only about three things they are asking for, and if the Interstate Commerce Committee put four things in, then they have given one additional favor to the Committee of Six, or more even than they asked for in the beginning.

I realize, too, that this bill as it was originally written, based on their recommendations, covered 197 pages, and that today, as it is brought to us, it covers only 100 pages.

Evidently the pressure which has been put on here by the general public throughout the Nation has caused them to wring out about 100 pages and to bring down to only 100 pages the demands and the requests of this Committee of Six which they think they can railroad through Congress in the name of saving our railroads.

Yes, we are interested in saving our railroads, but I want to say to you and I know you will agree wth me if you have given this matter thought and consideration, you will never save the railroads by pursuing the recommendations either contained in this bill or contained in the report of the Committee of Six. You will do two things rather than that, and I cannot take the time at this time to go into those two things, but you Members of Congress know what those two things are and you are either for one of those things or the other, depending upon your own particular, individual, social, political, and economic philosophy.

The sense and the meaning of the demands of this Committee of Six, boiled down, are three, as I have said. First,

they want equality of regulations. I think that is perhaps, a desirable, if unattainable, ideal. They want equality of taxation and they want equality of subsidization, they say. I am now quoting from the second and third paragraphs of the first page of their report.

Let us consider for a moment what that means and exactly what the result would be or just what the Committee of Six are asking, and what consequently this bill seeks to provide under the guidance of our sympathetic Interstate Commerce Committee.

Let us take the matter of subsidization: You are all familiar with the great grants and gifts and subsidies which were made in the early days of the history of our railroads to put them on their feet and to make them possible and profitable. You are familiar with the subsidies which have been given down through the decades since then, and I will submit to any sincere and fair-minded person that we have given the railroads far more in the way of subsidies than we have given our inland waterways, or all of our waterways for that matter. But they come back to us and say now, "We have spent or we have squandered all those subsidies, those gifts and grants that you generous people of the United States gave us, and we want you to give us some more so we can be put on an equality with a little infant industry which transports, as has been said this afternoon and is shown in this report, only 3 percent of the ton-miles of the traffic of this Nation."

With respect to equality of taxation or relief from overtaxation, I will agree with the Committee of Six that something should be done; and I believe that if they were to handle this thing in a businesslike and a sensible way they would go to the States which are overtaxing in many cases our public carriers, and they would get something done in the way of equity and justice as to taxation rates. It does not seem to me right or fair, as I have considered the plight of the railroads, that they should be continually forced to pay out in taxation more money than they are making, as has been shown by the records; in other words, paying a tax burden out of a deficit. This is not sound business and not good sense, and I recommend that the States of the Nation take into consideration the plight of the railroads, because that is one of the basic and fundamental things which we need to consider in rehabilitating our railroads.

Mr. DONDERO. Mr. Chairman, will the gentleman yield for a question?

Mr. ALEXANDER. I yield to the gentleman from Michigan.

Mr. DONDERO. I understand the railroads of this country pay about $250,000,000 a year because of legislative restrictions now upon them that ought to be removed.

Mr. ALEXANDER. I agree with the gentleman from Michigan. The exact State tax figure for 1937 is $252,964,923, a little more for 1938, and I might add that there are two things which we, as legislators, if we are sincere and honest about this matter of helping the railroads, should do—examine carefully and correct the tax situation which is killing the railroads, and also give them some Federal financial assistance at low rates of interest on long-term loans in order to enable them to rehabilitate their lines and modernize their equipment.

The total taxes paid by class I railroads—that is, both State and Federal—were $325,665,165 in 1937 and $331,330,193 for the 12 months ending June 30, 1938. And this tax toll was exacted notwithstanding the fact that the year's net income was estimated as a net deficit of $125,000,000 at the end of 1938 when the Committee of Six made its report. Still the States continue to exact exorbitant taxes out of all proportion to earnings and perhaps out of reason, inasmuch as such taxes are three times as much as all Federal taxes taken from the railroads.

But to get back to the first item suggested by our Committee of Six—equality of regulation; that is, according to their formula, regulation by and under the Interstate Commerce Commission, which it is hinted in many quarters is now owned lock, stock, and barrel by the railroads, whom this Commission seeks daily so assiduously to serve, although it was set up originally in 1887 to protect and serve the shipper and the general public.

The distinguished chairman of the House Interstate Commerce Committee has just said, almost with tears in his eyes, "We are told that the waterways do not want to submit to the same regulations that the railways do."

Well, of course, they do not. Nor did the railroads ask for regulation in 1887, or consent to it. No, they did not ask for nor willingly consent to the benign regulations which they now enjoy and like so well that they, out of their generosity and the kindness of their hearts—of steel—want to give to the waterways. It is such a wonderful gift to the water and bus carriers that one almost wonders that the railroads could wish to give part of their good things away that way.

No, my friends, the railroads did not want the regulation they have now until they found in a few decades that they could gain control of their regulatory body. For more information along this line I refer you to the accounts of the backgrounds of several of the members of the Interstate Commerce Commission as found in the latest edition of Who's Who in America.

Now, how long will it take for our inland waterways handling all of 3 percent of our freight revenue ton-miles to gain the same or equal control over the regulatory death cell to which our overgenerous railroad boys want to consign the waterways in section III of this bill? Do not be so gullible as to think it will ever happen or that the water carriers could long survive if we turn control over to the I. C. C. On the other hand, and of a certainty, the net result will be their death and destruction instead, with consequent loss and damage to the shippers and to the consuming public and to the taxpayers.

Perhaps the proponents of this bill would like to suggest for a compromise that we divide the I. C. C. into regional sections or into business sections for purposes of selecting appointees. If so, then it would be interesting to inquire how they would cut up the country into 11 sectors or if they would give the railroads four appointees and the bus and water carriers three each, or should the railroads get 6 out of the 11 as special proponents of the welfare of the rail carriers?

There are of course, many other angles to this great national problem, but my limited time will not permit further discussion now. Therefore I wish to say in conclusion that I am opposed to this bill because of the injustice which it would perpetrate on the great mass of the people of this country for the benefit—and a very doubtful benefit—of a limited few, and I hope the measure will be generously amended or defeated.

[Here the gavel fell.]

Mr. LEA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. JONES of Texas, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee had had under consideration the bill (S. 2009) to amend the Interstate Commerce Act, and had come to no resolution thereon.

### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1871. An act to prevent pernicious political activities.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6205) entitled "An act to provide for additional clerk hire in the House of Representatives, and for other purposes."

### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. MITCHELL, indefinitely, on account of illness.

### SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2170. An act to improve the efficiency of the Coast Guard, and for other purposes;

S. 2805. An act to authorize the attendance of the United States Naval Academy Band at the New York World's Fair on the day designated as Maryland Day at such fair.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H. R. 153. An act to transfer jurisdiction over commercial prints and labels, for the purpose of copyright registration, to the Register of Copyrights;

H. R. 161. An act to amend section 73 of the Hawaiian Organic Act, approved April 30, 1900, as amended;

H. R. 542. An act for the relief of Anna Elizabeth Watrous;

H. R. 985. An act to authorize the Secretary of War to furnish certain markers for certain graves;

H. R. 1883. An act for the relief of Marguerite Kuenzi;

H. R. 1982. An act to amend the act entitled "An act to classify officers and members of the Fire Department of the District of Columbia, and for other purposes";

H. R. 2168. An act to authorize the Secretary of War to make contracts, agreements, or other arrangements for the supplying of water to the Golden Gate Bridge and Highway District;

H. R. 2234. An act for the relief of W. E. R. Covell;

H. R. 2413. An act for the protection of the water supply of the city of Ketchikan, Alaska;

H. R. 2480. An act for the relief of the estate of John B. Brack;

H. R. 2687. An act for the relief of Elbert R. Miller;

H. R. 2903. An act for the relief of Virginia Guthrie, Jake C. Aaron, and Thomas W. Carter, Jr.;

H. R. 2967. An act to grant to the State of California a retrocession of jurisdiction over certain rights-of-way granted to the State of California over a certain road about to be constructed in the Presidio of San Francisco Military Reservation;

H. R. 3081. An act for the relief of Margaret B. Nonnenberg;

H. R. 3248. An act authorizing a per capita payment of $15 each to the members of the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation;

H. R. 3305. An act for the relief of Charles G. Clement;

H. R. 3314. An act to provide shorter hours of duty for members of the Fire Department of the District of Columbia, and for other purposes;

H. R. 3321. An act to provide allowances for uniforms and equipment to certain officers of the Officers' Reserve Corps;

H. R. 3364. An act to transfer the control and jurisdiction of the Park Field Military Reservation, Shelby County, Tenn., from the War Department to the Department of Agriculture;

H. R. 3614. An act for the relief of Frank M. Croman;

H. R. 3623. An act for the relief of Capt. Clyde E. Steele, United States Army;

H. R. 3673. An act for the relief of the Allegheny Forging Co.;

H. R. 3730. An act for the relief of John G. Wynn;

H. R. 3796. An act to extend the period of restrictions on lands of the Quapaw Indians, Oklahoma, and for other purposes;

H. R. 3834. An act to amend the act entitled "An act to regulate steam and other operating engineering in the District of Columbia," approved February 28, 1887, as amended;

H. R. 4155. An act for the relief of Mary A. Brummal;

H. R. 4391. An act for the relief of H. W. Hamlin;

H. R. 4440. An act for the relief of Mr. and Mrs. John Shebestok, parents of Constance and Lois Shebestok;

H. R. 4617. An act for the relief of Capt. Robert E. Coughlin;

H. R. 4762. An act for the relief of William S. Huntley;

H. R. 5036. An act authorizing the State highway departments of North Dakota and Minnesota and the counties of Grand Forks, of North Dakota, and Polk, of Minnesota, to construct, maintain, and operate a free highway bridge across the Red River near Thompson, N. Dak., and Crookston, Minn.;

H. R. 5064. An act to amend the act approved June 25, 1910, authorizing establishment of the Postal Savings System;

H. R. 5494. An act for the relief of John Marinis, Nicolaos Elias, Ihoanis or Jean Demetre Votsitsanos, and Michael Votsitsanos;

H. R. 5523. An act authorizing the States of Minnesota and Wisconsin to construct, maintain, and operate a free highway bridge across the St. Croix River at or near Osceola, Wis., and Chisago County, Minn.;

H. R. 5525. An act to extend the times for commencing and completing the construction of a bridge over Lake Sabine at or near Port Arthur, Tex., to amend the act of June 18, 1934 (48 Stat. 1008), and for other purposes;

H. R. 5660. An act to include Lafayette Park within the provisions of the act entitled "An act to regulate the height, exterior design, and construction of private and semipublic buildings in certain areas of the National Capital," approved May 16, 1930;

H. R. 5781. An act to extend the times for commencing and completing the construction of a bridge and causeway across the water between the mainland, at or near Cedar Point and Dauphin Island, Ala.;

H. R. 5785. An act granting the consent of Congress to the State of Mississippi to construct, maintain, and operate a free highway bridge across Pearl River at or near Georgetown, Miss.;

H. R. 5786. An act granting the consent of Congress to the State of Mississippi or Madison County, Miss., to construct, maintain, and operate a free highway bridge across Pearl River at or near Ratliffs Ferry in Madison County, Miss.;

H. R. 5963. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill.;

H. R. 5964. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River between St. Louis, Mo., and Stites, Ill.;

H. R. 5984. An act granting the consent of Congress to the county of Allegheny, Pa., to construct, maintain, and operate free highway bridges across the Monongahela River, in Allegheny County, State of Pennsylvania;

H. R. 6045. An act to authorize the Secretary of the Navy to accept on behalf of the United States certain land in the city of Seattle, King County, Wash., with improvements thereon;

H. R. 6070. An act to amend section 5 of the act of April 3, 1939 (Public, No. 18, 76th Cong.);

H. R. 6079. An act granting the consent of Congress to the Arkansas State Highway Commission to construct, maintain, and operate a free highway bridge across the Black River at or near the town of Black Rock, Ark.;

H. R. 6111. An act to extend the times for commencing and completing the construction of a bridge across the Red River at or near a point suitable to the interests of navigation, from a point in Walsh County, N. Dak., at or near the terminus of North Dakota State Highway No. 17;

H. R. 6502. An act granting the consent of Congress to the State of Minnesota or the Minnesota Department of Highways to construct, maintain, and operate a free highway bridge across the Mississippi River at or near Little Falls, Minn.;

H. R. 6527. An act granting the consent of Congress to the Commissioners of Mahoning County, Ohio, to replace a bridge which has collapsed, across the Mahoning River at Division Street, Youngstown, Mahoning County, Ohio;

H. R. 6577. An act to provide revenue for the District of Columbia, and for other purposes;

H. R. 6573. An act granting the consent of Congress to Northern Natural Gas Co. of Delaware to construct, maintain, and operate a pipe-line bridge across the Missouri River;

H. R. 6672. An act to amend the act entitled "An act to create a new division of the District Court of the United States for the Northern District of Texas", approved May 26, 1928 (45 Stat. 747);

H. R. 6748. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Winona, Minn.;

H. R. 6834. An act authorizing the Commissioners of the District of Columbia to settle claims and suits of the District of Columbia;

H. R. 6870. An act to grant to the Commonwealth of Massachusetts a retrocession of jurisdiction over the Gen. Clarence R. Edwards Memorial Bridge, bridging Watershops Pond of the Springfield Armory Military Reservation in the city of Springfield, Mass.;

H. R. 6876. An act to make uniform in the District of Columbia the law on fresh pursuit and to authorize the Commissioners of the District of Columbia to cooperate with the States;

H. R. 6928. An act to extend the times for commencing and completing the construction of a bridge across the Niagara River at or near the city of Niagara Falls, N. Y., and for other purposes;

H. R. 7052. An act to provide a posthumous advancement in grade for the late Ensign Joseph Hester Patterson, United States Navy;

H. J. Res. 247. Joint resolution to provide minimum national allotments for cotton; and

H. J. Res. 248. Joint resolution to provide minimum national allotments for wheat.

ADJOURNMENT

Mr. LEA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 59 minutes p. m.) the House adjourned to meet tomorrow, Saturday, July 22, 1939, at 12 o'clock noon.

## COMMITTEE HEARING

COMMITTEE ON INSULAR AFFAIRS

There will be a meeting of the Committee on Insular Affairs on Tuesday, July 25, 1939, at 10 a. m., for the consideration of H. R. 6197, creating the Puerto Rico Water Resources Authority, and for other purposes; and S. 2784, to amend section 4 of the act entitled "An act to provide a civil government for the Virgin Islands of the United States," approved June 22, 1936.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1030. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated July 5, 1939, submitting a report, together with accompanying papers and an illustration, on a preliminary examination and survey of Verdigris River, Kans., authorized by the Flood Control Act approved June 22, 1936 (H. Doc. No. 440); to the Committee on Flood Control and ordered to be printed, with an illustration.

1031. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated July 5, 1939, submitting a report, together with accompanying papers and illustrations, on a survey of Brady Creek, Tex., authorized by the River and Harbor Act approved August 26, 1937 (H. Doc. No. 441); to the Committee on Rivers and Harbors and ordered to be printed, with five illustrations.

1032. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated July 12, 1939, submitting a report, together with accompanying papers and an illustration, on reexamination of Intracoastal Waterway from Apalachicola Bay to St. Marks River, Fla., requested by resolution of the Committee on Rivers and Harbors, House of Representatives, adopted February 16, 1939 (H. Doc. No. 442); to the Committee on Rivers and Harbors and ordered to be printed, with an illustration.

1033. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated July 7, 1939, submitting a report, together with accompanying papers and an illustration, on reexamination of Baker Bay, Columbia River, Wash., requested by resolution of the Committee on Rivers and Harbors, House of Representatives, adopted February 15, 1939 (H. Doc. No. 443); to the Committee on Rivers and Harbors and ordered to be printed, with an illustration.

1034. A letter from the Secretary of the Treasury, transmitting the Annual Report of the Federal Bureau of Narcotics for the calendar year ended December 31, 1938; to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. CARTWRIGHT: Committee on Indian Affairs. H. R. 7135. A bill to authorize the leasing of the undeveloped coal and asphalt deposits of the Choctaw and Chickasaw Nations in Oklahoma; with amendment (Rept. No. 1233). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. House Joint Resolution 289. Joint resolution to amend section 5 of Public Law No. 360, Sixty-sixth Congress; with amendment (Rept. No. 1234). Referred to the Committee of the Whole House on the state of the Union.

Mr. HILL: Committee on Indian Affairs. S. 2634. An act to reserve to the United States for the Bonneville project a right-of-way across certain Indian lands in the State of Washington, subject to the consent of the individual allottees and the payment of compensation, and for other purposes; without amendment (Rept. No. 1235). Referred to the Committee of the Whole House on the state of the Union.

Mr. WARREN: Committee on Merchant Marine and Fisheries. H. R. 5845. A bill to provide for the establishment of a Coast Guard station on the shore of North Carolina at or near Wrightsville Beach, New Hanover County; without amendment (Rept. No. 1236). Referred to the Committee of the Whole House on the state of the Union.

Mr. MURDOCK: Committee on the Public Lands. S. 5. An act to grant certain lands to the Arizona State Elks Association Hospital; without amendment (Rept. No. 1237). Referred to the Committee of the Whole House on the state of the Union.

Mr. MOTT: Committee on the Public Lands. H. R. 884. A bill to add certain lands to the Siuslaw National Forest in the State of Oregon; with amendment (Rept. No. 1238). Referred to the Committee of the Whole House on the state of the Union.

Mr. BLAND: Committee on Merchant Marine and Fisheries. H. R. 7090. A bill to amend section 4488 of the Revised Statutes of the United States, as amended (U. S. C., 1934 ed., title 46, sec. 481); without amendment (Rept. No. 1239). Referred to the Committee of the Whole House on the state of the Union.

Mr. BLAND: Committee on Merchant Marine and Fisheries. H. R. 7091. A bill to amend section 4471 of the Revised Statutes of the United States, as amended (U. S. C., 1934 ed., title 46, sec. 464); without amendment (Rept. No. 1240). Referred to the Committee of the Whole House on the state of the Union.

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 5996. A bill to amend the act of Congress approved May 3, 1935, entitled "An act to promote safety on the public highways of the District of Columbia by providing for the financial responsibility of owners and operators of motor vehicles for damages caused by motor vehicles on the public highways in the District of Columbia; to prescribe penalties for the violation of the provisions of this act, and for other pur-

poses; without amendment (Rept. No. 1242). Referred to the Committee of the Whole House on the state of the Union.

Mr. VOORHIS of California: Committee on the Public Lands. H. R. 6831. A bill to authorize the Secretary of the Interior to lease certain of the public lands to the Metropolitan Water District of Southern California for the extraction of sodium chloride for water-conditioning purposes; with amendment (Rept. No. 1243). Referred to the Committee of the Whole House on the state of the Union.

Mr. DEROUEN: Committee on the Public Lands. S. 2624. An act to amend the act of August 24, 1912 (37 Stat. 460), as amended, with regard to the limitation of cost upon the construction of buildings in national parks; without amendment (Rept. No. 1244). Referred to the Committee of the Whole House on the state of the Union.

Mr. MURDOCK of Arizona: Committee on the Public Lands. S. 6. An act to return a portion of the Grand Canyon National Monument to the public domain; without amendment (Rept. No. 1245). Referred to the Committee of the Whole House on the state of the Union.

Mr. MURDOCK of Arizona: Committee on the Public Lands. S. 432. An act to provide for the public auction of certain town lots within the city of Parker, Ariz.; without amendment (Rept. No. 1246). Referred to the Committee of the Whole House on the state of the Union.

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 6266. A bill providing for the incorporation of certain persons as Group Hospitalization, Inc.; without amendment (Rept. No. 1247). Referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 4903. A bill to exempt from taxation certain property of the American Friends Service Committee, a nonprofit corporation organized under the laws of Pennsylvania for religious, educational, and social-service purposes; without amendment (Rept. No. 1241). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KUNKEL:

H. R. 7318. A bill granting the consent of Congress to the General State Authority, Commonwealth of Pennsylvania, to construct, maintain, and operate a toll bridge across the Susquehanna River at or near the city of Millersburg, Pa.; to the Committee on Interstate and Foreign Commerce.

H. R. 7319. A bill granting the consent of Congress to the General State Authority, Commonwealth of Pennsylvania, to construct, maintain, and operate a toll bridge across the Susquehanna River at or near the city of Middletown, Pa.; to the Committee on Interstate and Foreign Commerce.

By Mr. NICHOLS:

H. R. 7320. A bill to amend the District of Columbia Revenue Act of 1939, and for other purposes; to the Committee on the District of Columbia.

By Mr. LESINSKI:

H. R. 7321. A bill to provide a method by which certain aliens now in the United States may be readmitted for permanent residence; to the Committee on Immigration and Naturalization.

By Mr. SASSCER:

H. R. 7322. A bill to authorize the acquisition of the necessary rights-of-way for the extension of the George Washington Memorial Parkway from the city of Washington to Fort Foote, Md.; to the Committee on Public Buildings and Grounds.

By Mr. BATES of Massachusetts:

H. Res. 267. Resolution providing for a Tariff Commission investigation and report of importation of fish; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DONDERO:

H. R. 7323. A bill for the relief of Arno Ehrhardt Hartenstein; to the Committee on Naval Affairs.

By Mr. DARDEN:

H. R. 7324. A bill for the relief of Otto Wells; to the Committee on Claims.

By Mr. DARROW:

H. R. 7325 (by request). A bill for the relief of Tony Tarsatana; to the Committee on Military Affairs.

By Mr. GARTNER:

H. R. 7326. A bill for the relief of Emanuel Bratses; to the Committee on Claims.

By Mr. SCRUGHAM:

H. R. 7327. A bill for the relief of the Nevada Silica Sands, Inc.; to the Committe on Mines and Mining.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4842. By Mr. LUTHER A. JOHNSON: Petition of J. L. Beavers, R. A. Rogers, A. H. Shirly, and J. O. Kendrick, of Hillsboro, Tex., favoring House bill 6749; to the Committee on Agriculture.

4843. By Mr. KEOGH: Petition of the Grand Lodge, Brotherhood of Railroad Trainmen, Cleveland, Ohio, concerning the House transportation bill; to the Committee on Interstate and Foreign Commerce.

4844. Also, petition of the Interstate Magazine Hauling Corporation, New York City, concerning the amended transportation bill; to the Committee on Interstate and Foreign Commerce.

4845. Also, petition of the New York Board of Trade, Inc., New York City, concerning the Mead-Allen bill; to the Committee on Banking and Currency.

4846. Also, petition of the International Association of Machinists, Washington, D. C., concerning the Lea transportation bill and Senate bill 2009; to the Committee on Interstate and Foreign Commerce.

4847. Also, petition of United Telephone Organizations, New York City, concerning House resolutions 229 and 230; to the Committee on Rules.

4848. Also, petition of the New York Joint Council of the United Office and Professional Workers of America, New York City, concerning amendments to the Social Security Act and the O'Day bill (H. R. 101); to the Committee on Ways and Means.

4849. By Mr. PFEIFER: Petition of the International Association of Machinists, Washington, D. C., urging support and enactment of Senate bill 2009; to the Committee on Interstate and Foreign Commerce.

4850. Also, petition of the Lancaster Iron Works, New York City, opposing the Lea transportation bill; to the Committee on Interstate and Foreign Commerce.

4851. Also, petition of the Interstate Magazine Hauling Corporation, New York City, opposing the Lea transportation bill; to the Committee on Interstate and Foreign Commerce.

4852. Also, petition of the New York Joint Council of the United Office and Professional Workers of America, New York City, concerning proposed amendment to the Social Security Act and the O'Day bill (H. R. 101); to the Committee on Ways and Means.

4853. Also, petition of the United Telephone Organizations, New York City, opposing House Resolutions 229 and 230; to the Committee on Rules.

4854. Also, petition of the New York Board of Trade, Inc., New York City, concerning the Mead-Allen bill; to the Committee on Banking and Currency.

4855. By Mr. RISK: Resolution of the Business and Professional Women's Clubs of Rhode Island, protesting against the removal of the U. S. S. *Constellation* from its present site in Newport, R. I., where it has been stationed for over

50 years at the naval training station; to the Committee on Public Buildings and Grounds.

4856. Also, resolution passed by the board of aldermen in the city of Newport, R. I., protesting against the removal of the U. S. S. *Constellation* from its present anchorage at the naval training station, Newport, R. I., and where it is annually visited by many thousands of visitors to the State because of its historical career in the naval service during the War of 1812; to the Committee on Public Buildings and Grounds.

4857. By Mr. RUTHERFORD: Petition of sundry residents of Montour County, Pa., favoring legislation to stop the advertising campaign for the sale of alcoholic beverages by press and radio; to the Committee on Ways and Means.

4858. By Mr. SHAFER of Michigan: Petition of the Michigan Federation of Post Office Clerks, asking for appointment of joint congressional committee to investigate conditions surrounding employment of substitute post-office clerks; to the Committee on Rules.

4859. Also, resolution of the Pennsylvania State Bar Association, endorsing Senate bill 915 and House bill 6324; to the Committee on the Judiciary.

4860. By the SPEAKER: Petition of the Michigan Federation of Post Office Clerks, Detroit, Mich., petitioning consideration of their resolution with reference to postal-employee legislation; to the Committee on Rules.

# HOUSE OF REPRESENTATIVES

## SATURDAY, JULY 22, 1939

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our heavenly Father, we ask Thee to read our hearts and know our minds. May we pray not for wealth or fame but for eyes to behold the truth and for a realizing sense that knows the eternal right. Clothe us with a manly faith, strong, courageous, which even dares with heart and hand to stoop to the lowliest of Thy children. We pray, dear Lord, for strength that never wavers, for a hope that never grows dim, and for those material blessings which the righteous may enjoy without harm and hold without wrong. Almighty God, give us power to gain dominion over selfishness, envy, and resentment. In every situation the Lord give us strength to hold on to our better selves. In our Redeemer's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2065. An act to provide for the regulation of the sale of certain securities in interstate and foreign commerce and through the mails, and the regulation of the trust indentures under which the same are issued, and for other purposes.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1610. An act to prevent discrimination against graduates of certain schools, and those acquiring their legal education in law offices, in the making of appointments to Government positions the qualifications for which include legal training or legal experience; and

S. J. Res. 176. Joint resolution providing for participation by the United States in the celebration to be held at Fort McHenry on September 14, 1939, in celebration of the one hundred and twenty-fifth anniversary of the writing of The Star-Spangled Banner.

### EXTENSION OF REMARKS

Mr. ANDERSON of Missouri. Mr. Speaker, I ask unanimous consent to extend my remarks and include therein an address by Dr. McCormick, grand exalted ruler of the Elks.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. SHANNON. Mr. Speaker, I rise to ask unanimous consent to have printed in the RECORD an address delivered yesterday, July 21, by Col. J. Rion McKissick, president of the University of South Carolina, on Manassas Battlefield, at the presentation of a monument in respect to Gen. Barnard Elliott Bee.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. BLAND. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on the railroad bill and to include certain quotations.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

### REGISTRY OF PURSERS AND SURGEONS AS STAFF OFFICERS ON VESSELS

Mr. BLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 6076) to provide for the registry of pursers and surgeons as staff officers on vessels of the United States, and for other purposes, with Senate amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 8, strike out "50" and insert "100."

Page 3, line 22, after "any" where it appears the second time, insert "such."

Page 3, line 23, after "States", insert "designated therein."

Page 4, line 13, strike out all after "*Provided,*" down to and including "operations" in line 15 and insert "That the provisions of this act shall not apply to any vessel of the United States operated on bays, sounds, inland waterways, and lakes, other than the Great Lakes, or to passenger ferries and car ferries operated on the Great Lakes."

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, will the gentleman from Virginia tell us the effect of these amendments?

Mr. BLAND. The amendments really do not materially change the bill. The bill provided that on ocean-going vessels licensed to carry more than 50 passengers the officer in charge of the staff department should be the chief purser. The amendment increases that to 100 passengers.

The second amendment inserts, after the word "any", the word "such." It is a clarifying amendment.

Then there is another clarifying amendment which inserts the words "designated therein."

The other amendment inserted by the Senate was where we had provided that the provisions of the act should not apply to any vessel in the United States engaged in ferry operations. There was some question as to whether that sufficiently covered the situation, and the Senate amended it so that it would not apply to vessels operating on bays, sounds, inland waterways, and lakes, other than the Great Lakes, or to passenger ferries and car ferries operated on the Great Lakes.

That was the original intent of the bill as it passed the House, and we thought it was sufficiently clear, but it did develop that it was not, and this is simply a clarifying amendment.

Mr. MARTIN of Massachusetts. There are no substantial changes in the bill?

Mr. BLAND. There are no substantial changes in the bill.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Senate amendments were agreed to.

A motion to reconsider was laid on the table.